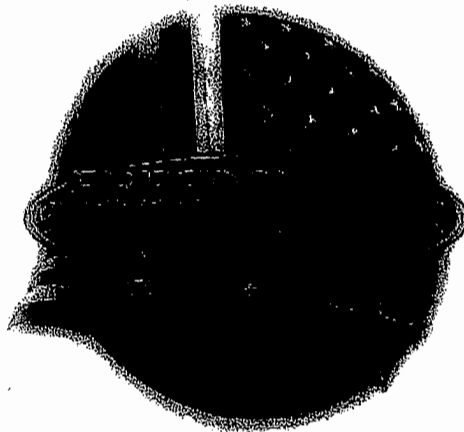


FREEDOM OF INFORMATION
AND
PRIVACY ACTS

Subject: Julius Rosenberg

File Number: 65-15348

Section: Sub 14 (A)



FEDERAL BUREAU OF INVESTIGATION

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FILE DESCRIPTION

NEW YORK FILE

SUBJECT

Julius Rosenberg

FILE NO.

65-15348

Sub Sec A

VOLUME NO.

14

SERIALS

1024

thru

1110

File No: 65-1534 2 sub A re Julius & Ethel Rosenberg

Date: 6-2-78

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Special Agent in Charge or other official
			Actual	Released	
1024	6-17-53	Press Clippings NY Times	3	3	
1025	6-17-53	" " NY News	2	2	
1026	6-17-53	" " NY Herald Tribune	1	1	
1027	6-17-53	" " NY Times	1	1	
1028	6-17-53	" " NY Mirror	3	2	
1029	6-17-53	" " " "	1	1	
1030	6-17-53	" " NY Herald Tribune	1	1	
1031	6-17-53	" " NY Post	3	3	
1032	6-17-53	" " NY Brooklyn Eagle	1	1	
1033	6-17-53	" " " "	3	3	
1034	6-17-53	" " NY Journal American	2	2	
1035	6-17-53	" " " "	1	1	

*Designated to or from Bureau and/or Albuquerque New York

File No: 65-1534 sub 10 re: Julius & Ethel Rosenberg

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1036	6-17-53	News Clipping NY JOURNAL AMERICAN	1	1	
1037	6-17-53	" " " "	3	3	
1038	6-17-53	" " NY BROOKLYN EXPLORER	2	2	
1039	6-17-53	" " NY WORLD TELEGRAM & SUN	1	1	
1040	6-17-53	" " NY BROOKLYN EXPLORER	1	1	
1041	6-17-53	" " NY POST	1	1	
1042	6-17-53	" " NY WORLD TELEGRAM & SUN	1	1	
1043	6-17-53	" " NY POST	1	1	
1044	6-17-53	" " NY WORLD TELEGRAM & SUN	4	4	
1045	6-17-53	" " NY " " " "	1	1	
1046	6-17-53	" " NY " " " "	1	1	
1047	6-17-53	" " NY HERALD TRIBUNE	2	2	

*Designated to or from Bureau and/or Albuquerque New York

File No: 65-15348-506A Re: Julius & Ethel Rosenberg

Date: 7-29

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1048	6-18-53	News Clipping NY Herald Tribune	1	1	
1049	6-18-53	" " NY Times	3	3	
1050	6-18-53	" " NY News	1	1	
1051	6-18-53	" " " "	1	1	
1052	6-18-53	" " NY Mirror	1	1	
1053	6-18-53	" " " "	3	3	
1054	6-18-53	" " " "	1	1	
1055	6-19-53	" " NY Herald Tribune	2	2	
1056	6-19-53	" " NY News	1	1	
1057	6-19-53	" " " "	1	1	
1058	6-19-53	" " NY News	3	2	
1059	6-19-53	" " NY News	5	5	

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VOLUME 500 147 B

NEW YORK FILES

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File No: 65-15348 sub A Re: Jolks & Ethel Rosenberg

Date: 2-78

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1060	6-19-53	News Clipping NY News	1	1	
1061	6-19-53	" " NY Mirror	8	8	
1062	6-19-53	" " NY " "	1	1	
1063	6-19-53	" " " " " "	4	4	
1064	6-19-53	" " NY Herald Tribune	5	5	
1065	6-19-53	" " NY Times	3	3	
1066	6-19-53	" " NY Herald Tribune	1	1	
1067	6-19-53	" " NY " "	2	2	
1068	6-19-53	" " NY Times	1	1	
1069	6-19-53	" " NY Mirror	1	1	
1070	6-19-53	" " NY Times	1	1	
1071	6-19-53	" " " " " "	1	1	

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Inventory Worksheet
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SUB 141A

NEW YORK FILES

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RRP/af
Date 2-78

100-15348 sub A on Julius & Ethel Rosenberg

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1072	6-19-53	News Clipping NY Times	1	1	
1073	6-19-53	" " " "	1	1	
1074	6-19-53	" " NY World Telegram & Sun	1	1	
1075	6-19-53	" " " "	2	2	
1076	6-19-53	" " NY JOURNAL AMERICAN	1	1	
1077	6-19-53	" " " "	1	1	
1078	6-19-53	" " NY Brooklyn Eagle	1	1	
1079	6-19-53	" " " "	1	1	
1080	6-19-53	" " " "	1	1	
1081	6-19-53	" " " "	2	2	
1082	6-19-53	" " " "	2	2	
1083	6-19-53	" " NY Post	1	1	

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File No: 65-15348-Sub A

Re: Julius & Ethel Rosenberg

Date: 2/78
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1084	6-19-53	News Clippings NY Post	1	1	
1085	6-19-53	" " NY World Telegram Sun	1	1	
1086	6-19-53	" " NY Post	3	3	
1087	6-18-53	" " NY Journal American	2	2	
1088	6-18-53	" " " "	1	1	
1089	6-18-53	" " " "	1	1	
1090	6-18-53	" " " "	1	1	
1091	6-18-53	" " " "	1	1	
1092	6-18-53	NY " NY World Telegram Sun	2	2	
1093	6-18-53	" " " "	1	1	
1094	6-18-53	" " " "	2	2	
1095	6-18-53	" " " "	1	1	

File No: 65-15346

Re: Julius & Ethel Rosenberg

Date: 6-78
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
1096	6-18-53	News Clipping	1	1	
1097	6-18-53	" " " " NY Brooklyn Eagle	1	1	
1098	6-18-53	" " " " " " " "	1	1	
1099	6-18-53	" " " " NY World Telegram & Sun	1	1	
1100	6-18-53	" " " " NY Post	1	1	
1101	6-18-53	" " " " NY Post	3	3	
1102	6-18-53	" " " " " " " "	2	2	
1103	6-18-53	" " " " NY Journal American	2	2	
1104	6-18-53	" " " " NY World Telegram Sun	1	1	
1105	6-18-53	" " " " " " " "	1	1	
1106	6-18-53	" " " " " " " "	2	2	
1107	6-18-53	" " " " NY Journal American	3	3	

RULING DOUGLAS IN ROSENBERG CASE DELAYED TO TODAY

Justice Spends 12 Hours in His Study of Plea for Stay for Condemned Atom Spies

MINISTERS SEE PRESIDENT

They Report He Indicated He Would Not Ease Sentence— Poland Offers Asylum

By LUTHER A. HUSTON
Special to THE NEW YORK TIMES

WASHINGTON, June 16—The fight to save Julius and Ethel Rosenberg from death in the electric chair was waged in high places in Washington today. The couple has been sentenced to die in Sing Sing prison on Thursday for betraying secrets of the atom bomb to Soviet Russia.

Interest centered in the day-long consideration given by Justice William O. Douglas of the Supreme Court to a plea for a stay of execution.

After considering the plea for more than twelve hours, Justice Douglas left his chambers late tonight without announcing his decision. The justice had received the formal petition of the Rosenbergs' lawyers at 10 A. M. Shortly before 11 P. M. he left the Supreme Court Building for the night. Earlier in the evening he had taken two hours for dinner, but returned for another two hours of study.

The expectation was that Justice Douglas would make known his ruling tomorrow.

Throughout the hours Justice Douglas was engrossed in a study of legal papers left with him by attorneys for the Rosenbergs and others interested in the case. Weary lawyers and newspaper men remained in ante-rooms until the justice left the building and Harold B. Willey, clerk of the court, informed them that no decision would be forthcoming tonight.

Clemency Petition Filed

Four clergymen also pleaded with President Eisenhower to save the lives of the condemned spies. The Rev. Daniel Ridout, Negro secretary of the Baltimore area of the Methodist Episcopal Church, said after the conference that the President had indicated he would not commute the sentence.

Emanuel H. Bloch, principal attorney for the Rosenbergs, filed at the Department of Justice late this afternoon a petition for executive clemency. Mr. Bloch said that the understanding with Daniel M. Lyons, pardon attorney, was that the petition would not be processed—that is, it would not be sent to the White House—until all available judicial recourse had been exhausted.

On the diplomatic front, the Embassy of Poland moved in with an offer by the Polish Government of asylum for the Rosenbergs if the United States would lift the death sentence and permit them to go to that country.

The marble corridors of the Supreme Court building normally would have been deserted, except for a few straggling tourists, on the day after the adjournment of the court for the summer recess. Instead they buzzed with uneasy activity incident to the Rosenberg case.

Any Justice Can Grant Stay

Reporters and cameramen kept a watchful eye throughout the day and court officials were busy overtime. Groups of tourists crowded through the building by guides brightened up when they were told that behind the tall brass gates that close off the area containing the justices' chambers Justice Douglas was wrestling alone with the problem of whether to give the spies a temporary reprieve until the Supreme Court could again consider new appeals from adverse decision of the lower courts.

Justice Douglas agreed to hear the plea for a stay after the high court had rejected at its regular session yesterday a similar plea by the Rosenbergs' attorneys and after a rare special session called late in the day by Chief Justice Fred M. Vinson had refused to hear arguments by counsel for the spies. Any justice of the high court has power to grant a stay on his own responsibility at any time. The court as a whole would decide later, however, whether it would hear the new appeals.

Justice Douglas received the formal petition for a stay at 10 A. M. from John H. Finerty, Prof. Malcolm Sharp of the University of Chicago Law School and Miss Gloria Agin, associated with Mr. Bloch as counsel for the Rosenbergs.

Shortly thereafter he also re-

Continued on Page 14, Column 8

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N.Y. TIMES

DATE JUN 17 1953

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ROSENBERG RULING DELAYED TO TODAY

Continued From Page 1

Received an application for a writ of habeas corpus from Fyke Farmer, a Tennessee lawyer, and Daniel G. Marshall, a Los Angeles lawyer, representing Irwin Edelman, a private citizen of Los Angeles. Judge Irving R. Kaufman, in the federal court in New York yesterday, rejected a similar plea by Mr. Farmer on the grounds that he was an intruder and an interloper in the case and had no authorization to represent the Rosenbergs.

Justice Douglas, however, heard Mr. Farmer and Mr. Marshall briefly and permitted them to file an impromptu handwritten brief. The chief arguments of these attorneys were that an open trial had been denied to David Greenglass and his wife, who were charged with the Rosenbergs; that the 1917 espionage statute, under which the Rosenbergs were tried and convicted, had been superseded by the Atomic Energy Act and that secret testimony taken at the trial had never been shown to the Supreme Court.

Greenglass is a brother of Mrs. Rosenberg. He pleaded guilty and was sentenced to fifteen years for espionage. He was the chief witness against them at the trial.

Mr. Farmer and Mr. Marshall contended that, since the Atomic Energy Act provided that the death sentence may be imposed only by juries, Judge Kaufman was without power to order the Rosenbergs executed. The secret testimony they said had not been given to the high court included a sketch of the atom bomb and accompanying formulas that Greenglass testified he had given to the Rosenbergs for transmission to Russia. These documents were impounded by the court because of their secret nature.

Douglas Talks With Officials

Justice Douglas also talked in his chambers with Robert S. Erdahl, chief of the appellate section of the Department of Justice; John Wilkins, an attorney in the Criminal Division; and James B. Kilheiser, an assistant United States Attorney in New York, one of the lawyers who prosecuted the Rosenbergs.

Although Mr. Finerty, Professor Sharp and Miss Agrin remained at the court through the day, they were not called in by Justice Douglas. Mr. Bloch returned late in the afternoon after visiting the Rosenbergs in Sing Sing Prison and he, too, remained in the anteroom assigned to lawyers.

There was no fraternizing between the Rosenbergs' lawyers and Mr. Farmer and Mr. Marshall. They sat at opposite sides of the room and exchanged no conversation. The Rosenberg group was said to oppose the activities of the "interlopers."

Justice Douglas lunched in the court building's cafeteria and the Rosenberg counsel were at a table twenty feet away but no words passed between them.

The clergymen talked with President Eisenhower as a group of pickets carrying placards urging that the Rosenbergs' lives be spared paraded in front of the White House.

Besides Mr. Ridout, those in the group were Dr. Bernard Loomer, dean of the School of Religion at the University of Chicago; Rabbi Adam Cronbach of Cincinnati, and Dr. Bruce Dahlberg of Brooklyn. They were accompanied to the White House by Dr. Charles Stewart of New York, who said he was once a member of the faculty of the Roger Ascham School at White Plains.

President Eisenhower in February rejected a plea for clemency for the Rosenbergs. The ministers who saw him today came away with the impression that he had not changed his stand.

Dr. Loomer said that the President did not "say yes or no," but the clergyman said his own feeling was "that the answer was no."

Rabbi Cronbach also said that the President had "adduced arguments of 'no' rather than 'yes.'"

The President agreed to see the clergymen after he had received a telegram saying that they were spokesmen "for 2,300 of their fellow-clergymen who have asked for commutation."

They offered two considerations to General Eisenhower, according to Dr. Loomer. One was that execution would make martyrs of the Rosenbergs and the other that the case had become symbolic and "execution is the wrong symbol to use to designate the kind of country we are trying to preserve."

Dr. Loomer said that the President listened sympathetically but remarked that other things must be taken into account in considering a grant of clemency.

Although there was activity on many fronts, it was emphasized by Mr. Bloch that there was only one legal action now pending in the case. That was the request of Justice Douglas for a stay of execution, he said, adding that whether or not the clemency petition filed with the Justice Department would be processed depended upon the nature of Justice Douglas' ruling.

Lincoln White, press officer at the State Department, said that the United States has no intention of answering the note offering asylum to the Rosenbergs, which was handed to the American Ambassador, Joseph Fack, in Warsaw yesterday. He described the note as "an impertinence."

In a statement issued by the

Polish Embassy here, it was said that the offer was made at the direction of the Polish Red Cross. Mr. White said that it was a matter for the American courts, not the Polish Red Cross, to decide.

Rosenbergs Sign Petition

Special to THE NEW YORK TIMES.

OSSINING, N. Y., June 30—

Julius and Ethel Rosenberg, condemned atom spies, signed a clemency petition today in the Sing Sing prison death house asking President Eisenhower for clemency. Emanuel H. Bloch, defense attorney, then left the prison for Washington with the document.

The couple, scheduled to die in the electric chair Thursday, signed the petition in the presence of their two sons, Michael, 10 years old, and Robert 6.

Comment in Europe

The Soviet press yesterday for the first time devoted special attention to the Rosenberg case. Under such headlines as "The Affair of the Rosenberg Couple," leading newspapers in Moscow ran a dispatch of the Tass News Agency in New York.

In one item the impending execution of Julius and Ethel Rosenberg, the convicted atom spies, was referred to as "so-called 'atomic espionage.'"

The dispatch from New York said "progressive" opinion in the United States regarded the Rosenbergs as "victims of war hysteria" and added that "conclusive" evidence of their guilt had not been presented at the trial. The list of protests included one by the International Congress of Women in Copenhagen.

Meanwhile organized protests mounted here and abroad in the drive to save the Rosenbergs' lives.

In this city newspaper offices were flooded with copies of appeals that had been sent to President Eisenhower, asking clemency for the couple, while news service wires from abroad were kept busy with the reports of similar pleas.

The United Press reported from London that extra guards had been assigned to the United States Embassies in Paris, Vienna and other European cities as Communists stepped up their demonstrations of protest against the impending executions. The guard around the embassy in Brussels was doubled after hundreds of "Save the Rosenbergs" signs appeared on nearby walls and pavements.

In London Hugh J. Delargy, Labor Member of Parliament, announced that he had sent to President Eisenhower, in behalf of forty legislative colleagues, a declaration that the Rosenbergs' execution would "harm every ideal which our countries share."

As Red leaders endeavored to whip up protests, the police in Paris were mobilized in preparation for "anything" today, designated by Communist leader Maurice Thorez as "Save the Rosenbergs Day."

In Italy American Ambassador Clare Booth Luce was besieged with clemency pleas, including one from the General Confederation of Labor.

Robert E. Ward Jr., American Ambassador to Switzerland, declined to accept a petition from a Swiss group appealing for revision of the death sentence. Mr. Ward said he "refused to be a tool in a Communist propaganda campaign."

Another petition, in the form of

a telegram to President Eisenhower, came from Guatemala. It was signed by 100 persons, including fourteen members of Congress.

Still another protest came from Regina, Canada. There, according to The Canadian Press, a "vigil" was started yesterday by the League for Democratic Rights in front of the American Consulate.

Organizations in this city that took protest action include the Socialist Workers party.

Douglas Rules Today On Spies; Ike Hints No

By FRANK HOLEMAN

OF THE NEWS BUREAU

Washington, D. C., June 16.—Supreme Court Justice William O. Douglas pondered all day today a plea by the lawyers for atom spies Julius and Ethel Rosenberg for a stay of execution, then tonight announced he would make no decision until tomorrow.

The announcement came shortly after Douglas returned to his chambers from a three-hour dinner. It was hours after President Eisenhower had made it clear to a group of clergymen that he is not inclined to extend clemency to save the couple from Sing Sing's electric chair Thursday night.

The President discussed the case with three Protestant ministers and a rabbi who urged commutation to life imprisonment, while lawyers for the atom spies were making their last desperate arguments before Douglas. The Supreme Court has four times refused to intervene in the case.

Three of the four ministers said after their chat with Ike that they believe "the answer is no." The fourth, the Rev. Bruce Dahlberg of the Lefferts Park Baptist Church, Brooklyn, declined to predict the President's decision.

Cites Feb. 11 Statement

To clarify the situation, Press Secretary James C. Hagerty told reporters: "The President has made his public statement on the Rosenberg case last Feb. 11. There is nothing further before him at this time."

On Feb. 11, Ike rejected and clemency petition, branding the Rosenbergs' crime "far worse than murder."

While the President talked with the clergymen, two groups of lawyers for the Rosenbergs laid their cases for a stay of execution and a full review of the famed spy trial before Justice Douglas.

Court in Recess

Any Justice technically has the power to issue a stay of execution, because the court is now in recess until October. It would be a most unusual action, however, because the entire court has four times refused to intervene in the case.

Emanuel Bloch, chief counsel for the Rosenbergs, flew down from Sing Sing with the new plea for Presidential clemency, signed by

(Continued on page 8, col. 1)

CLIPPING FROM THE

N.Y. NEWS

JUN 17 1953

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FBI - NEW YORK	

Frank Holeman

Douglas Rules Today On Spies; Ike Hints No

(Continued from page 2)

the condemned couple in prison this morning.

He filed the plea with Daniel A. Lyons, pardon attorney at the Justice Department, after the White House said it must be handed in the routine way, and Bloch would not be received by the President.

A spokesman for the Justice Department said the clemency petition would "be studied." Informed sources have said repeatedly that the only way the Rosenbergs can change the President's mind is by singing loud and long about Soviet espionage in the U.S.

"A full confession of their own guilt wouldn't be enough," a high source said today. "They would have to give other information."

Asked if the Rosenbergs would talk at the 11th hour to save their lives, Bloch told reporters: "No, they still maintain their innocence."

Bloch said he probably would go to the White House tomorrow to try to present the plea personally to the President.

The four clergymen who saw Eisenhower were Dr. Bernard D. Loomer, dean of the Divinity School of the University of Chicago; Dr. Daniel L. Ridout, a Negro, executive secretary of the Baltimore area of the Methodist Church; Rabbi Abraham Cronbach, retired professor of Union Hebrew Seminary in Cincinnati, and Dahlberg.

"It is my firm conviction that the President felt that the considerations for execution outweighed the considerations for clemency," declared Dr. Loomer, who acted as spokesman for the group. They talked 30 minutes with Ike.

Dr. Loomer added, however, that "he didn't say yes or no."

But Rabbi Cronbach said: "The President indicated arguments of no instead of yes."

"The President felt his obligations to the American people and to the oath he had taken outweighed his personal sympathies in the matter," reported Dr. Ridout.

Dahlberg said only: "I wouldn't be prepared to say what the President will do."

Dr. Loomer said the group told Ike it would be a mistake to make "martyrs" out of the Rosenbergs.

Remembers Battlefield.

The President pointed out, however, that Federal prisoners sentenced to life imprisonment are "eligible for parole after 15 years." Then he compared the case to similar decisions he had to make on the battlefield.

While Bloch was at Sing Sing—he brought the Rosenbergs' sons Michael, 10 and Robby, 6, there for what may have been the last time they will see their parents—the petition for a stay of execution before Douglas was presented by defense attorney John F. Finerty and associate defense counsel Malcolm Sharp, professor at the University of Chicago Law School.

Douglas, however, first granted a hearing to two newcomers to the defense scene—Daniel G. Marshall of Los Angeles and Fyke Farmer of Nashville, who presented a petition for a writ of habeas corpus. The full Supreme Court had rejected a similar petition yesterday.

Marshall and Farmer said they raised the argument before Douglas that Federal Judge Irving R. Kaufman, the sentencing judge, had no legal right to impose the death penalty.

(Other picture on page 1.)

European Capitals Alerted

Reds Spur Protests on Rosenbergs

LONDON, June 16 (AP).—Guards were reinforced at American Embassies in Europe today as Communists stepped up demonstrations to protest the impending execution of American atomic spies Julius and Ethel Rosenberg.

Precautionary measures were taken first at Embassies in Paris, Vienna and Brussels. Police were alerted for the possibility of violence.

Communist leaders led the effort to whip up protests, but some prominent non-Communist Europeans also appealed to President Eisenhower to grant clemency.

Edouard Herriot, eighty-two, France's elder statesman and president of the National Assembly, cabled Gen. Eisenhower asking a stay of execution "for reasons of humanity."

Politicians Send Plea

A group of French politicians, including former Premier Edgar Faure, and journalists and leaders in the arts also appealed to Gen. Eisenhower for clemency in the name of "fidelity to the principle of morality and justice."

A number of British writers and artists asked the President

to throw "the weight of mercy into the balance in the favor of the condemned." The signatures included playwright Sean O'Casey, writer A. E. Coppard, poet Dylan Thomas, actor Miles Malleon and playwright Laurence Housman.

The Executive Committee of the French Communist party issued instructions to all party members to "keep alert and lead the fight during the last hours to save the Rosenbergs." Police were mobilized to be prepared for anything tomorrow, designated by Communist leader Maurice Thorez as "Save the Rosenbergs Day."

Austrian Communists were summoned to two demonstrations in Vienna, one today and the other tomorrow. Thousands of workers in Russian-controlled industries signed petitions against the executions.

Various delegations, mostly Communist-inspired, arranged to present petitions today to Ambassador Clare Boothe Luce in Rome. The general-secretary of the Communist-controlled General Confederation of Labor also wired Mrs. Luce to intervene with Gen. Eisenhower.

The American Embassy here reported it had been receiving

a steady flow of letters urging clemency. Demonstrations have been held in front of the Embassy, in Grosvenor Square, at least twice a day for several days.

Last night, some one draped a placard around the neck of the statue of Abraham Lincoln in Parliament Square. It read: "Lincoln would say the Rosenbergs must not die."

The guard around the Embassy in Brussels was doubled after hundreds of "Save the Rosenbergs" signs appeared on walls and pavements. Tonight, nearly 400 demonstrators marched along the main boulevard.

Moscow Comment

MOSCOW, Wednesday, June 17 (AP).—Soviet newspapers commenting on the case of Julius and Ethel Rosenberg, said today the "progressive public of the United States and in the entire world" considers them "the victims of the war hysteria."

"At the trial of the Rosenbergs" the Soviet paper said "there were not presented any convincing proofs whatsoever of their guilt."

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N.Y. HERALD TRIBUNE

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JUN 17 1953
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French Pleas on Rosenbergs Laid to Mercy and Politics

Catholic Support for Red Appeals Said to Be Based on Humanitarianism

By HAROLD CALLENDER

Special to The New York Times

PARIS, June 16 — The growing protest here against execution of Julius and Ethel Rosenberg, convicted in the United States as spies, represents an odd combination of humanitarian and political motives. It reflects a revulsion against the death sentence for espionage in peace time, a distaste for justice in the United States and a desire to show that United States officials have been led into error by an unduly passionate pursuit of the "cold war."

Apart from the "cold war" element, the reactions resemble those in the Sacco-Vanzetti case a quarter-century ago.

The United States Embassy here, which is flooded with protests and delegations that take up about half the Ambassador's time, contends that 80 per cent of the protests are of Communist origin or inspiration.

Among the remaining 10 per cent, assuming that the embassy's statistical guess is accurate, are Etouard Herriot, speaker of the National Assembly and former Premier, who has sent a cable to President Eisenhower urging clemency, two other former Premiers, Edgar Faure and Paul Boncour; three members of the French Academy and all but a few of the twenty-eight signatories of a joint cable who include the writers, André Maurois, Georges Duhamel and Roger Martin du Gard, Maurice Cardinal Felin, Roman Catholic Archbishop of Paris, also belongs to the 10 per cent.

It would therefore be a mistake to assume that the sympathy for the Rosenbergs was merely a Communist or anti-American emotion. It is highly mixed, like the lists of names beneath appeals to President Eisenhower, which include notorious Communists and alongside them equally notable anti-

It is true, as the Embassy suggests, that the French Communists have ably capitalized the deep French impulse to protest loudly against apparent injustice anywhere. It also is true that this impulse has been utilized by some who are not Communists but who dislike and fear United States foreign policy, which they think entails an unnecessary risk of war.

It is probable that some Frenchmen are quick to find something wrong with the United States from which so much criticism of France has come, and it would not be difficult to perceive a certain irony in the denunciations of United States courts by citizens of a country where justice was very perfunctory in some of the political purge trials during and just after World War II.

It is confusing that men like M. Duhamel and M. Maurois should sign their names along with those of Louis Aragon, a Communist writer and Pablo Picasso, a Communist painter, on a cable to President Eisenhower. This juxtaposition obscures the issue and colors humanitarianism with politics.

Yet, it is characteristic that men of distinction and of moderate or even conservative and Catholic views can be found who will join with Communists in an indictment of not only minor American courts but of the United States Supreme Court.

In published comments on the case there is reiteration of the suggestion that Americans are less sensitive to justice and human rights than Frenchmen are. Pierre Goutet, a lawyer, said in a newspaper article: "The indifference of American opinion is for us a source of additional anxiety."

Le Monde's Washington corres-

pondent suggested that the United States was about to indulge in a "ritual murder" and that the Rosenbergs were victims of the "cold war."

Paris-France said there was no Rosenberg issue in the United States where no writer, politician or newspaper had spoken in favor of the pair, as had happened in France.

But behind this mixture of motives and reasoning there is more than Communist propaganda and a pretension to superior morality. There is a concern for justice and doubt that it has been done in this case. This concern and doubt have been badly expressed and have appeared in odd company. But they are no less real for that.

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Douglas Will Give Ruling On A-Spies Today

WASHINGTON, June 16 (INS) — Supreme Court Justice Douglas tonight postponed action until 10 a.m. (EDT) tomorrow on the appeal of Julius and Ethel Rosenberg for a stay of their execution scheduled for 11 p.m. Thursday.

The court said that Douglas after considering the plea for nearly 13 hours has decided to defer action until tomorrow and there will be "no announcement prior to 10 o'clock tomorrow (Wednesday) morning.

EARLIER PRESIDENT Eisenhower indicated he would reject a "last hope" plea of the man and wife, whose scheduled death is now only 48 hours away.

However, it was learned that they plan to make one more appeal—this one to Justice Frankfurter, if Douglas rules against them and denies a stay of execution already turned down by the full supreme bench.

The President's attitude toward the Rosenbergs was made plain to four clergymen with whom he talked at the White House and who urged him to grant mercy to the doomed spies.

Almost simultaneously, defense attorney Emanuel Bloch filed with the Justice Department the Rosenbergs' plea for executive clemency.

Later, White House News Secretary Hagerty issued a statement apparently confirming the clergymen's interpretation of the President's attitude.

REFERRING TO Eisenhower's previous denial of clemency in the spy case, Hagerty said: "The President has made his public statement on the Rosenbergs Feb. 11. There is nothing further before him at this time."

Hagerty said the President consented to see the four clergymen because they represented a large group of religious leaders. He added: "He heard their case." Hagerty refused to elaborate.

The clemency petition, signed by the Rosenbergs, begged the President not to orphan their two sons and declared "We are innocent—the guilt will be America's if we die."

The condemned spies declared they had no confession to make, and said they were ready to die "with dignity and honor" if their mercy plea was turned down.

THE FOUR RELIGIOUS leaders, who urged Eisenhower to spare the Rosenbergs' lives, said he listened attentively to their arguments but gave them the dis-

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CLIPPING FROM THE

N.Y. MIRROR

JUN 17 1953

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General Edition

CLERGYMEN VISIT WHITE HOUSE SEEKING CLEMENCY FOR CONVICTED ATOM SPIES



Four religious leaders, Rev. Dr. Daniel L. Rideout, Methodist Church, of Baltimore; Rev. Dr. Bernard M. Loomer, dean of Chicago Divinity School; Rev. Dr. Bruce Dahlberg, Baptist Church, Brooklyn; and Rabbi Abraham Cronbach, professor emeritus, Union Hebrew Seminary, Cincinnati (l. of r.), are pictured in Washington, where they made clemency plea to the President for Ethel and Julius Rosenberg.

(International Brotherhood of Editors)

Douglas to Rule On Spies Today

Continued from Page 3

first impression that "the answer was no."

When the President refused clemency last February, he said their betrayal of the nation in passing U.S. atomic secrets to Russia could cost the lives of thousands of their fellow countrymen.

THE DELEGATION represented 2,800 clergymen and was headed by Dr. Bernard M. Loomer, Dean of the University of Chicago Divinity School.

Loomer told newsmen the clergymen argued to the President that killing the Rosenbergs would make them martyrs "which is one of the best ways of aiding communism."

Loomer said Eisenhower pointed out that if he were to commute the Rosenbergs' death sentence to life imprisonment, they would be eligible for parole in 15 years.

THE CLERGYMEN said the President noted he was a religious person himself and thus sympathetic to the views they presented, but that there were other considerations which gave him "very serious pause" about granting clemency.

LOOMER QUOTED the President as saying that Communists are solely concerned with materialistic things and have no regard for the worth of an individual.

With the Chicago ministers were Rabbi Abraham Cronbach of Cincinnati, Dr. Daniel L. Rideout of Baltimore, and the Rev. Bruce T. Dahlberg of Brooklyn.

In another development, the State Department announced it would reject as an "impertinence" an offer by Communist Poland to take custody of the Rosenbergs should their lives be spared and exile substituted for execution.

DEPARTMENT spokesman Lincoln White said the Polish offer, announced in Warsaw, had not been received in Washington. White added, however: "It constitutes an impertinence and we will not reply to it."

Rosenbergs' Sons Visit Them At Death House—for Last Time?

Sons Visit Spies — For Last Time?

Continued from Page 3

Condemned atom spies Julius and Ethel Rosenberg, still insisting they are innocent, were visited yesterday by their two young sons in the death house at Sing Sing for what may have been the last time, and signed a 10-page petition asking President Eisenhower for executive clemency.

The doomed couple, scheduled to be electrocuted Thursday night, previously had petitioned the President for clemency, but Eisenhower rejected that first petition.

Loud and loyal in defense of his parents, 10-year-old Michael Rosenberg shouted to reporters after his prison visit:

"THEY'RE INNOCENT! They say they're innocent. Of course they're innocent."

His brother, Robert, 6, pursed his lips and nodded his head emphatically in silent agreement.

The boys, who will not see their parents again unless the execution stayed, appeared in good spirits after their visit. They were accompanied by a guardian who, refusing to give his name, admitted they had been living

somewhere in New Jersey for the past year.

HE SAID some of his neighbors knew the identity of the boys but had been kind and cooperative in shielding them from gossip and taunting. Both youngsters have been doing well in school during the year, he said, and will be promoted.

Michael was wearing a blue baseball cap, gray jacket and brown slacks. Robert was bare-headed and wearing a gray jacket and blue slacks.

They had waited quietly during the formality of registering for their visit and then rode a prison bus to the death house where they spent two hours with their parents.

Emanuel H. Bloch, the Rosenbergs' attorney, left for Washington from LaGuardia Field later

in the day to present one signed copy of the new petition to the White House and another to the pardon clerk in the Attorney General's office.

THE PETITION, parts of which were read by Bloch to newsmen at the prison, called on Eisenhower for "exercise of your superior power to prevent a crime worse than murder." Asserting they are innocent and that "the truth does not change," the Rosenbergs charged that "the guilt if we die will be America's."

"We are asking you not to orphan our boys," the petition said. "Hear the great and humble for the sake of America."

"I believe the Rosenbergs are supremely confident," Bloch told newsmen. "They want to live, but if die they

must, they will die with dignity and honor."

Last-minute arrangements for the executions were being supervised by Sing Sing's Warden, Wilfred Denno, who said extra guards would probably be posted on Thursday night. Ossining police, who have been notified in the past when Rosenberg sympathizers planned to demonstrate, said no word had been received up to yesterday but they felt sure they would be alerted if one is planned.

NO DECISION had been made as to which of the two condemned spies would be electrocuted first. Rabbi Irving Koslowe, one of Sing Sing's chaplains, was expected to escort them into the death chamber.

In addition to the warden and guards, the only others scheduled to be present at the executions were U. S. Marshal William Carroll and three reporters representing the Associated Press, International News Service and United Press. It was announced that Rosenberg's mother, Sophie, will pay her last visit to her son today.

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N.Y. MIRROR

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Frank E. ...

Today in Washington

Rosenbergs' Only Way Out: To Tell U.S. All They Know

By DAVID LAWRENCE

WASHINGTON, June 16.

Julius and Ethel Rosenberg, condemned to death as spies for having stolen atom bomb secrets and given them to Russia, can have their lives spared and their sentences commuted—if they tell the names of their accomplices and give information that will be useful in their arrest.

No formal offer has been made, but in indirect ways the fact is known to them that a commutation of sentence will result if the convicted spies reveal the information they possess. Up to now, they have been defiant. As the hour nears for execution of the death sentence, there could be a change in their adamant attitude.

The Theory of Commutation

The theory of commutation is this: While the Rosenbergs will be punished by a long-term prison sentence and be eligible for parole in twenty years, the United States would benefit by being able to detect other spies in its midst and particularly to prevent the theft of further information by conspirators—now unknown—who may do even more harm in the future to our national security than has been done already.

From the interest taken in the case by the Soviet government, it is apparent Moscow is grateful for what the Rosenbergs have done. Through Soviet agents all over the world, public pleas for mercy have been stirred up and agitation induced among groups of well-meaning citizens many of whom do not know they are being used as dupes in a world-wide propaganda campaign.

Day in and day out for several weeks past, "The Daily Worker," organ of the Communists in America, has been playing up the Rosenberg case, proclaiming the innocence of both Julius and Ethel and stressing the same note of martyrdom that is often associated with such smoke-screens of the true circumstances.

American embassies and legations in different capitals of the world have been picketed, and this has been followed by inspired dispatches telling of the possibly profound adverse effect abroad in the event that the sentences are carried out. Also, the White House has been picketed and every single trick of legal maneuvering has been used and lots of money spent to try to save the lives of the Rosenbergs. How has this money been spent and where did it come from? Some Congressional investigating committee might well look into the numerous activities, including the special trains to Washington from New York, which must have been financed by so-called Americans and perhaps by the Soviet's own funds.

One of Worst U. S. Crimes

The Rosenbergs are guilty of one of the worst crimes in American history. Benedict Arnold's treason was insignificant in comparison to

the crime of the Rosenbergs. For they also betrayed their country in war time—during the year 1944 and since. Much of the evidence is still classified and was impounded by the court. It is important not to let Soviet Russia know just what was recovered out of the papers that were transmitted. The other day Harold Urey, a prominent scientist who wanted the Rosenbergs' sentence commuted, sent a message to the White House claiming that the two accused persons could not have transmitted orally the scientific information they were alleged to possess. But the fact is the information and sketches were on paper, and a spy can act as a courier without being a scientist.

The enormity of the crime has never been publicly disclosed, but it is known that the theft of secrets by Klaus Fuchs, the naturalized Briton who spied and stole atomic data and confessed before being sent to jail in England, is regarded as of far less value to the Russians than the overt acts committed by the Rosenbergs in giving Moscow vital information relating to new bombs.

Kaufman Comment Cited

Judge Irving Kaufman of New York, who knows the facts about what the Rosenbergs did steal, expressed himself this way on April 5 last when he pronounced the death sentence:

"Your crime is worse than murder. Plain, deliberate, attempted murder is dwarfed in magnitude by comparison with the crime you have committed. In committing the act of murder, the criminal kills only his victim. The immediate family is brought to grief and when justice is meted out the chapter is closed. But in your case, I believe your conduct in putting into the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused the Communist aggression in Korea with the resultant casualties exceeding 50,000 Americans and who knows but that millions more of innocent people may pay the price of your treason. . . ."

"I feel that I must pass such sentence upon the principals of this diabolical conspiracy to destroy a God-fearing nation, which will demonstrate with finally that this nation's security must remain inviolate; that traffic in military secrets, whether prompted by slavish devotion to a foreign ideology or by a desire for monetary gains, must cease."

The Supreme Court of the United States has examined the law and the record and has affirmed the sentence. Only by demonstrating that they will give their allegiance to the United States instead of Russia, which they can do by telling all they know, can the Rosenbergs save their own lives.

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By MALCOLM LOGAN

Supreme Court Justice Douglas granted atom spies Julius and Ethel Rosenberg an indefinite stay of execution today, but Attorney General Brownell immediately announced that he would ask for a special session of the full court to reverse this "unprecedented action."

Justice Dept. lawyers pressed for speed and made it plain they wanted to see the death sentences carried out on schedule in Sing Sing at 11 p.m. tomorrow. They conceded, however, it was "doubtful" that the court could act so quickly if it decided to reverse Justice Douglas.

In granting the stay, Justice Douglas said he had serious doubts whether the Rosenbergs could legally be sentenced to death. He pointed out that the penalties of the 1917 espionage law were superseded, in the case of atomic spying, by the Atomic Energy Act of 1946. The latter statute permits capital punishment only when a jury recommends it and when the indictment charges intention to harm this country.

"Neither of these conditions is satisfied in this case as the jury did not recommend the death penalty nor did the indictment charge that the offense was committed with an intent to injure the U. S.," he said in his eight-page opinion.

He said this issue should be tried in the Federal District Court here. Unless the Justice Dept. can get the stay vacated by the full court, this will give the Rosenbergs another opportunity to fight the issue through the U. S. Court of Appeals here and the Supreme Court.

If they win, their sentence will be reduced to 20 years in prison, plus a possible fine of \$20,000—the maximum penalty under the Atomic Energy Act if the jury does not recommend death.

If the issue is fought out through all the courts it will probably take many months, since the action would be held up by the summer recesses of the Court of Appeals and Supreme Court.

New Action Next Week

Emanuel H. Bloch, the Rosenbergs' chief counsel, said he would start action in the Federal Court here next week and he said it might take a year to get a final decision.

An hour after Justice Douglas acted, the Justice Dept. issued this statement:

Attorney General Herbert Brownell Jr. announced today

that the Chief Justice of the Supreme Court will be asked later in the day to convene the full court to review Justice Douglas' unprecedented decision.

If Chief Justice Vinson grants the request, he will decide when to call the court into session.

Only six justices are required for a quorum and five—Vinson, Jackson, Clark, Burton and Black—were in Washington and immediately available.

Justice Douglas left for the Pacific Northwest before his opinion was made public, and Justices Frankfurter and Reed have also left the capital but can return soon, their offices said.

Ironically, it was not the Rosenbergs' lawyers who saved them. Two outside attorneys, Fyke Farmer of Nashville, Tenn., and Daniel G. Marshall of Los An-

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jeles, asked Justice Douglas for a writ of habeas corpus yesterday, contending that the Rosenbergs should have been sentenced under the 1946 Atomic Energy Act.

"I have serious doubts whether this death sentence may be imposed for this offense except and unless a jury recommends it," Justice Douglas said in an eight-page opinion delivered shortly after 11 a.m. "The Rosenbergs should have an opportunity to mitigate that issue."

He said he would not grant the writ of habeas corpus asked by Marshall but added:

"I will grant a stay effective until a question of the applicability of the penal provisions of Section 10 of the Atomic Energy Act to this case can be determined by the District Court and the Court of Appeals, after which the question of a further stay will be open to the Court of Appeals or to a member of this court in the usual manner."

Praises Farmer

When the two lawyers first sought a writ of habeas corpus in behalf of a Los Angeles man, Irwin Edelman, Federal Judge Irving R. Kaufman, who imposed the death sentence, denied it and called them "intruders and interlopers."

When they presented their arguments to Justice Douglas in his chambers yesterday, John F. Finerty, one of the Rosenbergs' lawyers, opposed them.

Today Finerty, unsuccessful in his own fight for a stay on different grounds, said:

"Tyke Farmer deserves all the credit."

He said defense lawyers had questioned the legality of the death sentence in one of their most recent moves, but had been unable to take it to the Supreme Court. They relied instead upon the argument that the execution should be held up until they could ask the Supreme Court to review lower court decisions refusing a new trial on claims of newly discovered evidence.

In the opening paragraph of his opinion, Justice Douglas said the application of the Rosenbergs' lawyers did not present any points substantially different from those the court had already considered and rejected and although he had power to grant a

stay "I could not do so responsibly on grounds the court has already rejected."

But, he said, the new question whether the Rosenbergs were protected by the Atomic Energy Act raised a "substantial" legal question and gave him reason for staying their execution.

"It is important that the country be protected against the nefarious plans of spies who would destroy us," Douglas said.

"It is also important that before we allow human lives to be snuffed out we be sure—emphatically sure—that we act within the law. If we are not sure, there will be lingering doubts to plague the conscience after the event."

Justice Douglas said that if the Atomic Energy Act was applicable to the Rosenberg case, Judge Kaufman could not lawfully sentence them to death. He noted the government contended that the penalties of the espionage law are applicable because all the acts of espionage charged to the Rosenbergs occurred before the Atomic Energy Act was passed in 1946.

"Curiously," he said, "this point has never been raised or presented to this court in any of the earlier petitions or applications."

All "Entitled to Protection"

"One purpose of the Atomic Energy Act," he said in another place, "was to ameliorate the penalties imposed for disclosing atomic secrets. . . . If the Rosenbergs are the beneficiaries, it is merely the result of the application of the new law with an even hand."

"In any event, Congress prescribed the precise conditions under which the death penalty could be imposed. All violators—Communists as well as non-Communists—are entitled to that protection."

The gray-haired Farmer, grinning triumphantly after Justice Douglas granted the stay, said: "Judge Kaufman may have called us intruders and interlopers, but we came in quietly."

He said he became interested in the case when he read a pamphlet by his client, Edelman, entitled: "Freedom's Electrocoagulation." The two decided to intervene in the case. For three months, he said, he tried to interest Bloch and the other Rosenberg lawyers in his argument against the death penalty, but they refused to support him.

Acts Without Fee

Farmer said he had received \$200 for expenses from Edelman, but was acting without fee "as a public service." He said he did not know whether he would play any further part in the Rosenberg defense but planned "to stick around New York and see what happens in the case."

Farmer said he gave up a flourishing law practice in 1946 to campaign for world government and has since spent "everything I had." He wears in his lapel a button with the words "Stop War" and has a suit pending in Nashville challenging the right of the government to collect income taxes for military purposes. He contends that war has been internationally outlawed.

Edelman, his client, said in Los Angeles that he wrote his pamphlet after he found some "shocking" things in the transcript of the Rosenberg trial. He said he was "close to 54" and was a freelance writer and pamphleteer who works as a salesman for a printing company.

If the Rosenbergs' sentences are ultimately reduced to 30 years, Morton Sobell, who was convicted with them and was sent to prison for 30 years, may also win a reduction of at least 10 years in his sentence.

Rosenberg's Mother To Visit Him Today

—(Continued from page 1)—Julius Rosenberg was to be visited today by his mother in the Sing Sing Prison death house in the last hours before he and his wife, Ethel, are scheduled to die in the electric chair for betraying U. S. atomic secrets in time of war.

Mrs. Sophie Rosenberg was scheduled to go behind the prison walls for what may be a last visit with her 33-year-old son. During developments in Washington, the Rosenbergs will be electrocuted at 11 p.m. tomorrow.

The Rosenberg children, Michael, 10, and Robert, 6, saw their parents for two hours yesterday.

The Rosenbergs waited in their separate cells today for word from Washington on the 11th hour efforts to escape the supreme penalty for giving secret atomic bomb plans to Russian agents during World War II.

They signed a final appeal to President Eisenhower for clemency yesterday in the presence of the children and their attorney, Emanuel Bloch, as they gathered in the counsel room near their death row cells.

Bloch said after the interview that Julius and Ethel were an "extremely high" spirits and were confident their lives would be spared, either by last-minute action by the Supreme Court or through the intervention of the President.

"Their consciences are clear," Bloch said. "Of course they want to live. If die they

must, they'll die with dignity and honor."

Sing Sing Warden Wilfred S. Drano was making last-minute arrangements for the double execution. He said additional guards would be placed on duty at the prison tomorrow night, although there had been no indication of any demonstration inside or outside the penitentiary.

Prison officials said it had not been decided which of the two convicted spies would go first into the high-ceilinged execution chamber tomorrow night.

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Douglas Grants Rosenbergs Stay On Technicality

Brownell Moves Immediately
For Full Court to Review Step

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BULLETIN

Washington, June 17 (UP) — Attorney General Herbert Brownell Jr. said he would ask Chief Justice Fred M. Vinson today to convene the full Supreme Court to review Justice Douglas' stay of execution for the Rosenbergs.

Washington, June 17 (UP) — Supreme Court Justice William O. Douglas today granted an indefinite stay of execution to atom spies Julius and Ethel Rosenberg.

The stay was granted, Justice Douglas said, because of "serious doubts" whether the death sentence could be imposed in their case unless a jury recommends it. The jury had not done so.

The Rosenbergs won the dramatic stay just 36 hours before they were scheduled to die in the Sing Sing Prison electric chair tomorrow night—their 14th wedding anniversary—for passing U. S.

atomic secrets to Russia.

Douglas said in an eight-page opinion that the stay would be effective indefinitely until one of the complex legal questions involved in the case can be determined in the lower courts.

The big question on which the Rosenbergs won their reprieve was whether the penalty provisions of the 1946 Atomic Energy Act superseded those of the espionage law under which they were convicted in March, 1951, and sentenced to die by Federal Judge Irving R. Kaufman of New York.

Douglas said that in the

Continued on Page 2

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Atomic Energy Act "Congress lowered the level of penalties to permit a death sentence only on recommendation of the convicting jury."

Two Outsiders Win

Tennically, it was not the battery of Rosenberg lawyers who won the stay, but two outsiders who had been described earlier in the week by Kaufman as "intruder and know-nothings." They are Fyke Farmer of Nashville and Daniel G. Marshall of Los Angeles, who represented Irwin Edelman, a Los Angeles resident who had interested himself in the case.

It was Farmer and Marshall who raised the issue of the Atomic Energy Act.

"Fyke Farmer deserves all the credit," John F. Finerty, Rosenberg lawyer, said.

Farmer had raised the same issue before Judge Kaufman, the trial and sentencing judge, earlier in the week. Kaufman turned him down.

Emanuel H. Bloch, chief defense attorney, announced that his next move will be to start action in New York Federal District Court.

Bloch said he thinks it will take a long time—possibly as much as a year—to get a final decision on the question of sentence.

The Rosenbergs were tried under the Espionage Act of 1917 for crimes alleged to have been committed in 1944 and 1945. Under that act the penalty for violations committed in wartime can be death or a maximum of 30 years in prison.

Provides Death Penalty

The Atomic Energy Act—which went on the statute books in 1946 after the crimes charged to the Rosenbergs but four years before their arrest and indictment—provides the death penalty in certain instances but "only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States." If the jury does not recommend death the maximum penalty is \$20,000 fine and 20 years in prison.

If the offender merely had "reason to believe" his act would hurt the United States, and aid a foreign power, the maximum penalty is \$10,000 fine and 10 years' imprisonment.

All day yesterday and into the night, Justice Douglas studied the couple's plea for an 11th hour stay of execution to permit a new high court review of their celebrated case.

Just before 11 p.m., Clerk Harold R. Willey told weary attorneys the decision would be delayed, there would be no announcement today. The suspense heightened.

Mr. Loomer, dean of the University of Chicago Divinity School, was the spokesman for a group of clergymen who appealed personally to Mr. Eisenhower for clemency yesterday afternoon. The group included the Rev. Bruce Tubbs, pastor of the Lefferts Park Baptist Church, Brooklyn.

Later, Loomer issued a statement to 100 Protestant clergymen who had backed the appeal.

Received 'Graciously'

"The President received us most graciously," he said. "He listened with close attention to our argument that clemency would be an indication of our national strength rather than our national weakness."

The President referred to his military experience during which he felt compelled to order an execution as a disciplinary measure and deterrent to the violation of the military code.

Loomer said Mr. Eisenhower did not actually say what his decision on the clemency appeal would be, but seemed to indicate he would not grant it. Mr. Eisenhower rejected a similar plea Feb. 11.

White House press secretary James C. Hagerty said the President saw the clergymen because "they said they represented a large section of the nation's clergy." As for the President's reaction, Hagerty merely referred newsmen to his Feb. 11 statement.

Loomer offered two arguments against the execution: that it would lead to "martyrdom which is the best way of aiding Communism" and that it is "a symbol of weakness."

Brownell Will Ask Full Court to Review Decision

Rosenbergs enjoy moment of elation when death house radio carries news of last-minute reprieve. —Page 8.

By WILLIAM KERWIN

International News Service Staff Correspondent

WASHINGTON, June 17—Supreme Court Justice Douglas today granted a stay of execution to atomic spies Julius and Ethel Rosenberg.

But Atty. Gen. Brownell promptly announced he will ask the full Supreme Court to reconvene and review the decision. The court has recessed for the Summer.

Douglas, blocked the execution of the Rosenbergs, set for 11 p. m. tomorrow at Sing Sing Prison, because of his "serious doubt" that their death sentence was legal.

Attorneys said it may take "more than a year" to decide the issue, but Brownell announced:

The Chief Justice of the Supreme Court will be asked later today to convene the Supreme Court to review Justice Douglas' unprecedented action."

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Asks Douglas Impeachment

Justice Department spokesmen said that even if the Supreme Court should reassemble by tonight, so many complex legal issues are involved that it is "doubtful" the execution could take place on schedule even if Douglas is overruled.

Rep. Wheeler (D.-Ga.) announced in the House that he will introduce today a bill to impeach Douglas, whom he denounced for "taking unto himself authority to grant amnesty to two proven atomic spies."

His announcement drew a round of applause from House members. Wheeler said he was acting because:

"When the case has been heard several times by the court and one justice yields to the vociferous pressure groups of the country and grants amnesty to convicted spies, I cannot sit idly by."

The high court, which has ruled against the Rosenbergs four times, recessed for the Summer Monday.

Brownell's request, if granted, would cause the court to reconvene, a virtually unprecedented action in modern court history.

Justice Department officials said they did not know when the court could actually be called together again.

Vinson to Decide Action

At least six justices—a quorum will be available if the tribunal is reconvened.

Chief Justice Vinson, who will make the decision on Brownell's request, was working in his office, as were Justices Jackson, Clark, Burton and Black.

Justice Reed was out of town, but his office said he could be available in time for any special meeting of the court.

Douglas has left Washington, presumably on a planned trip to the West Coast. Justices Frankfurter and Minton were not immediately reachable.

Defense attorney Emanuel Bloch said the full court was "powerless" to reverse the stay of execution granted by Douglas. He asserted that "it will take a long time—perhaps more than a year," to obtain a final decision.

Under Douglas' stay, Bloch said, the case must go to the New York courts and then to the Supreme Court. The New York courts do not meet again until next Fall.

Unless upset by the high court, the stay of execution would continue in effect while the matter is before the New York courts. Douglas said the matter of a further stay

Continued on Page 6, Column 5.

Doubts Sentence Is Legal:

Douglas Grants Stay To the Rosenbergs

Continued from First Page

would be within the jurisdiction of the New York Court of Appeals.

Douglas undertook to act alone in the case after the full Supreme Court bench had refused to interfere with the execution.

His decision came on the heels of an indication by President Eisenhower that he believed the couple should die.

The President strongly indicated yesterday to a group of clergymen who sought mercy for the Rosenbergs that he would not alter his decision, announced last February, to deny executive clemency if that were sought as a last recourse.

A group of "save-the-Rosenbergs" pickets who had kept vigil outside the White House since Sunday received the news of Douglas' ruling without show of joy. The pickets continued their slow march.

Refers to 1917 Espionage Act

The key phrase in Douglas' decision, which at least temporarily saved the lives of the man and woman who were to have been put to death on their 14th wedding anniversary, was this:

"I have serious doubts whether this death sentence may be imposed for this offense except and unless a jury recommends it. The Rosenbergs should have an opportunity to litigate that issue."

The 54-year-old jurist was referring to the Rosenbergs' conviction under the Espionage Act of 1917. The Rosenbergs' lawyers contended that they should have been tried under the Atomic Energy Act of 1946 which calls for the death penalty only if recommended by a jury.

The Douglas decision permits the Rosenbergs to bring before the Supreme Court their fifth appeal—a petition which only last week was rejected by the New York Court of Appeals.

Douglas said that he would not issue a writ of habeas corpus having the immediate effect of releasing the Rosenbergs from prison. But he said:

"I will grant a stay effective until the question of the applicability of the penal provisions of Section 10 of the Atomic Energy Act to this case can be determined by the District Court and the Court of Appeals, after which the question of a further stay will be open to the Court of Appeals or to a member of this court in the usual order."

Douglas asserted that he felt "a substantial" question of law has been presented to the court, "one which should be decided after full argument and deliberation."

News of Reprieve Elates Rosenbergs at Sing Sing

By LEON RACHT

OSSING, June 17.—Condemned atom spies Ethel and Julius Rosenberg enjoyed a moment of supreme elation at 11 a. m. today when the death house radio carried the flash that Justice Douglas had stayed their execution.

They had been scheduled to march to the Sing Sing electric chair at 11 o'clock Thursday night for what Federal Judge Irving R. Kaufman, sentencing judge, and President Eisenhower described as "a crime worse than murder."

The Rosenbergs, at the time of the radio announcement, were receiving visits, possibly the last if there had been no stay, from relatives of the electrical engineer.

TENSENESS EASED.

They were in different parts of the condemned cell building—but the reaction to the last-minute reprieve was much the same from each.

Death house guards said there were exclamations of surprise followed by smiles and a gradual lessening of the tense and tight-lipped attitude which has marked their demeanor here.

Guards said they appeared more cheerful than at any time since their admission to Sing Sing two years ago.

The Rosenbergs remained self-possessed and outwardly calm after the initial outburst of surprise, Warden Wilfred Denno said. There was no untoward display of emotion on the part of their visitors.

"They all, including the visitors, appeared pleased and happy about the stay but I would say they accepted it rather quietly," the warden said.

If the Rosenbergs had any audible comment on Justice Douglas' history-making decision, Warden Denno did not relay it to reporters.

Mrs. Rosenberg was seated with her mother-in-law, Mrs. Sophie Rosenberg, and her sister-in-law, Mrs. Ethel Goldberg. This visit was taking place in a room not far from the cell Mrs. Rosenberg occupies. She is the only woman prisoner in the death house at present.

WAS WITH BROTHER.

Rosenberg was in the regular visiting pen for men condemned to be executed. Visiting him at the moment was his brother, David. All three members of his family had come to see Rosenberg, and his sister and mother were also permitted to visit his wife.

A musical program was being played on the radio station to which the prison system was tuned. The music was interrupted by the station announcer who read a bulletin telling of the stay granted by Justice Douglas.

It was expected the Rosenbergs would make their first statement on the Douglas decision as soon as their lawyer, Emanuel Bloch, reaches Sing Sing, possibly late today.

Bloch was reported on the way to Ossining from Washington, where yesterday he filed at the

White House and the Department of Justice a 10-page petition beseeching President Eisenhower not to send the Rosenbergs to their deaths.

They had doggedly maintained they were convicted on perjured testimony which they said came from Mrs. Rosenberg's brother, David Greenglass, a former Army sergeant, who was employed on the Los Alamos, N. M., atomic project. Greenglass, who is serving 15 years, testified he stole atomic secrets and passed them to the Rosenbergs for transmission to Russia.

HINTS OF LENIENCY.

The Rosenbergs, rejecting Government hints of leniency if they betrayed their partners in the Communist espionage apparatus, said they were determined to die with "dignity and honor" if they had to go to the chair.

Sing Sing officials, who had completed arrangements for the double execution, said that, on the basis of Justice Douglas' decision, it might be many months before a final determination of whether the Rosenbergs would have to pay the supreme penalty for their crime.

MAY BE REMOVED.

They even hinted at the possibility the Rosenbergs would be moved out of the death house while the courts were deciding whether the couple should have been tried under the Atomic Energy Act of 1946 instead of the Espionage Act of 1917.

U. S. Marshal William A. Carroll, who had been charged with the duty of carrying out Judge Kaufman's order to put the couple to death the week of June 15, had no immediate comment on the last-minute stay.

The approaching hour of the Rosenbergs' scheduled execution brought hundreds of curious to the wire barricade outside Sing Sing's administration building.

Telephones were strung up on the outside fence for the use of reporters waiting to flash the news of the executions to their papers. A news service wire photo layout was installed in the house of a paper hanger on Hunter st., a few yards from the prison gates.

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A-Spy Vigil



ROSENBERG LAWYERS WAIT... As zero hour for the execution of atom spies Julius and Ethel Rosenberg tomorrow night approached, three of their lawyers waited hopefully outside the Supreme Court in Washington after filing what is considered a final potentially fruitful plea with Justice Douglas. Shown prior to announcement that the jurist would not reveal a decision until 10 a. m. today are Malcolm Sharp (left), John F. Finerty (center), and Emanuel Bloch, chief defense attorney (pointing). The appeal to Douglas was for a stay of execution. Earlier the full Supreme Court rejected a similar request, and President Eisenhower indicated he would not intervene. If Douglas refuses to act, it was learned the lawyers may turn to Justice Frankfurter in ultimate desperation. (Story on Page 1)

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Time Running Out for the Rosenbergs:

Doomed Atom Spies Hope For Last-Minute Miracle

By LEON RACHT

OSSINING, June 17.—Time was running out on atom spies Ethel and Julius Rosenberg today. Barring a legal loophole or Executive clemency they are apparently ready to go to their deaths with sealed lips.

With less than 36 hours of life left, the condemned couple went about the usual routine in Sing Sing's death house where they are scheduled to die in the electric chair at 11 p. m. tomorrow.

Guards reported both spent an uneventful night.

Their sleep was a little fitful but not more so than any other night since they were sentenced to death for stealing atomic secrets for Russia.

The Rosenbergs' last hope lay in an 11th hour reprieve by the Supreme Court or in an extension of mercy by President Eisenhower.

There appeared a little likelihood of either.

But, while there was life there was hope and apparently the doomed couple was banking everything on the improbable.

They could have live for a mere

recitation of the inside story on how they came to betray their country. They have been offered leniency by the Justice Department for a complete portrayal of their part in the Communist conspiracy through which they plundered precious U. S. secrets for the Kremlin.

Would they talk?

"They have no confession to make" said chief defense counsel Emanuel Bloch when he left the Rosenbergs after they signed a second appeal for White House intervention.

Was Bloch repeating the sentiments of the condemned?

"They are extremely confident that this country will not be so barbaric as to put them to death," the attorney said. "Their spirits and morale are high and if they must die they will die with dignity and honor."

TEXT RELEASED.

The Eisenhower petition was on legal foolscap written outside the prison walls but it was couched in the personal pronoun "We."

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questionnaire on entering the death house, words which were parroted by her husband.

Preparations were going forward to run off the double execution in the usual manner by Warden Willfred L. Denno who is acting under contract for the Federal government.

The Warden said he probably will have two shifts of guards on duty the night of the executions. He said he was taking all precautions against any possible trouble, although he foresaw none.

No decision has been made on which of the two Rosenbergs would go first to the electric chair. Usual procedure for prison authorities is to wait until the last to see which of a pair is "weakest." The "stronger" goes last.

There was no indication whether this routine would be followed with the Rosenbergs, however.

While they haven't expressed any religious wishes it was expected they would be accompanied to the death chamber by Rabbi Irving Koslowe, one of the Sing Sing chaplains.

FEW TO BE PRESENT.

Only other persons in the grim little room would be the Warden, guards, the executioner, doctors, U. S. Marshal William A. Carroll, and three reporters, one from each of the wire services, International News Service, Associated Press and United Press. The three reporters later would brief other newsmen.

Ossining police weren't overly concerned about possible last-hour demonstrations by Communists and other sympathizers for the Rosenbergs. They said they usually were alerted—by the demonstrators themselves for their own protection.

David Altman, national executive secretary of the Rosenberg Case committee in New York City, said there was no plan to send a protest group to Sing Sing unless all other appeals failed.

As the hour of doom for the Rosenbergs drew near, tension and excitement mounted around this town where the great gray prison squats on the banks of the Hudson River. Hundreds of cur-

ious, many of the in-courists on vacation—came to peer inside the wire barricade outside the prison's administration building.

One was a well-dressed woman who said she was from St. Louis. She blithely asked the veteran gate guard Arthur Brown, if she could see "Mr. and Mrs. Rosenberg."

Telephones were strung up on the outside fence for the use of reporters waiting to flash the news of the executions to their papers. A news service wire photo layout was installed in the house of a paper hanger on Hunter st., a few yards from the prison gates.

LAST VISIT BY KID.

The Rosenbergs' sons, Michael, 16, and Robert, 6, are expected to visit the death house again today, and, finally, tomorrow.

Thursday is not a regular visiting day at the prison but the rules are always relaxed in the case of a condemned person.

Other relatives expected are Julius' mother, Mrs. Sophie Rosenberg, his brother David and his two married sisters. All of these have visited him from time to time since his sentence.

Mrs. Rosenberg's mother, Mrs. Tessie Greenglass is scheduled to come to the prison tomorrow to bid her daughter good bye. So will her brother, Bernard Greenglass, who has only seen her a couple of times since she was condemned.

RIFT IN FAMILY.

According to the guardian who brought the children to the prison yesterday, he described himself as "a friend of Ethel and Julius since before their marriage" there is a rift in the Greenglass family ties.

Apparently this is because of the testimony of David Greenglass, who is serving 15 years in the Federal Penitentiary at Lewisburg, Pa. for his part in the spy plot.

The Rosenberg friend, a stocky, bald, bespectacled man who refused to identify himself further, said the Rosenberg children had been with him for the past year, "somewhere in New Jersey."

Asked if they were permitted to see their maternal grandmother, the custodian of the two

boys said "they have had been in contact with Mrs. Greenglass."

"They deny their relationship with their uncle David who they consider a hypocritical liar," the man said. "We don't feel that association with their maternal grandmother would be good. They don't like to be reminded of David."

The family friend quoted Ethel's brother, Bernard, as saying that "Dave Greenglass had through the trial."

Whether prison authorities will make any attempt to prevent a repetition of the hysterical demonstration which the Rosenberg boys staged as they were leaving the prison yesterday was not made known.

Their shouts, unintelligible, could be heard outside the administration building. They were not the tearful outbursts children might make but long penetrating screams as of rebellious youngsters.

CHILD IN DEMONSTRATION.

The sons were dry-eyed when they emerged. Michael was scowling and Robert, a handsome round-faced little chap, looked wide-eyed at the crowd of press photographers and television men.

Whether he was coached or not—in any event one of the assembled reporters questioned him—Michael, a seemingly precocious child, began stamping his foot and shouting:

"They are innocent—they are innocent—my mother and father wouldn't tell a lie."

There was no attempt on the part of the Rosenberg friends or counsel to shield the visit of the sons in secrecy. Rather, it was a small-sized demonstration, the boys being rolled up to the gate in a station wagon.

Michael carried a bouquet of old fashioned flowers which he waved at reporters. He said they were for his mother. However, prison rules forbid taking flowers into the death house as a security measure.

A veteran guard said that prior to the Ruth Snyder execution on Jan. 12, 1924 an attempt was made to smuggle poison into her in a box of orchids.

Two letters which the Rosenbergs purportedly exchanged dur-

It was the same protestation of innocence of which the Rosenbergs made when they filed a similar petition for clemency with the White House. That was turned down by Eisenhower on Feb. 11.

Even before the latest petition went to Eisenhower the National Committee to Secure Justice in the Rosenberg Case released the text for publication. The Committee has been a leader in agitation in behalf of the couple.

"We now again solemnly declare our innocence," said the released text.

CHARGE PERJURY.

The petition repeated the charge that the Rosenbergs were convicted on the "perjury" of David Greenglass, Mrs. Rosenberg's brother who confessed taking a-bomb secrets from Los Alamos, N. M.

It was the same theme which the husband-wife spy team has clung to since their conviction.

"I deny guilt," was Ethel Rosenberg's crisp response when she filed out the usual

Rev. Daniel Ridout

Rev. Bruce Dahlberg



Rev. Bernard M. Looner Rabbi Abraham Cronbach

CLERGY SEEK CLEMENCY . . . Mr. Dahlberg, who is from Brooklyn, and three other clergymen are shown as they left the White House after pleading with President Eisenhower to block the execution of atom spies Julius and Ethel Rosenberg. Mr. Ridout is from Baltimore; Mr. Looner from Chicago and Rabbi Cronbach from Cincinnati.

Wirephoto from AP.

ing their more than two years in the cells for the condemned are being published in pamphlet form under the title "Death House Letters."

The Rosenberg lawyers said they are being sold "all over the world" under the auspices of the "Committee to Secure Justice for the Rosenbergs" and that the proceeds are being "put in trust" for the children.

The local Western Union office is being swamped under an avalanche of telegrams, most of them to the White House asking clemency for the doomed couple.

An inquiry by this reporter revealed there are several suspected Communist-strongholds in upper

Westchester and apparently these are the source of the wires.

On the other hand many of the telegram ask to "secure justice for the Rosenbergs by sending them to the chair."

Cablegrams also have been pouring in from France, Italy, Germany and as far away as Australia. These are directed to the Rosenbergs, usually messages of comfort and expressing belief in their "innocence."

Several hundred messages were sent to Mrs. Rosenberg on Mothers Day not in the usual stereotyped phrases, but personally written expressions urging her to stand firm.

Douglas Decision On Rosenbergs Expected Today

Jurist Is Seen Their Last Hope As Ike Hints He Won't Intervene

Washington, June 17 (UP)—Supreme Court Justice William O. Douglas was expected to rule today whether the execution of Julius and Ethel Rosenberg—now only hours away—should be postponed again.

He seemed to be just about the last chance for the condemned atom spies. Other avenues were closing up fast as their date with the Sing Sing electric chair tomorrow night drew near.

All day yesterday and into the night, Justice Douglas studied the couple's plea for an 11th hour stay of execution to permit a new high court review of their celebrated case.

Just before 11 p.m., Clerk Harold B. Willey told weary attorneys the decision would be delayed, there would be no announcement today. The suspense heightened.

Speculation in Capital

There was some speculation Douglas was going to deny the stay and was preparing his reasons. A few observers thought he might be trying to contact other justices to determine whether there would be enough support for a stay and a new hearing. Most believed he was still just weighing the pros and cons.

As the case moved swiftly toward a climax, it was attracting world-wide attention. These were the major developments:

1. A group of clergymen who

conferred with President Eisenhower left with the definite impression he would turn down the Rosenbergs' new appeal for executive clemency.

2. Daniel M. Lyons, the Justice Department's pardon attorney, was studying the clemency appeal for formal transmission to the White House, but informed sources said it contained nothing new that would be likely to prompt Lyons to recommend its acceptance.

3. Barring a stay, Government sources believed the only way for the Rosenbergs to save their lives would be to "tell all" about their Communist spy activities.

Embassy Guards Reinforced

4. Guards were reinforced at U. S. embassies in Europe as Communists staged up demonstrations to protest the impending execution. Rosenberg sympathizers picketed the

Continued on Page 2

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Douglas Decision Due on A-Spies

Continued from Page 1
White House and various Federal buildings in Chicago.

Douglas, 44-year-old jurist who likes to climb mountains in his spare time, is considered one of the leading liberals on the high bench. Throughout the long legal fight in the Rosenberg case, he has voted in favor of a full review of the case.

He agreed yesterday to consider a stay after the full court voted down three separate pleas for intervention Monday. With a stay, the Rosenbergs would be saved at least until the court acted formally on their latest appeals.

Emanuel H. Bloch, the Rosenbergs' attorney, also said he might try to carry his clemency plea directly to President Eisenhower. But the White House had made it plain he should go through Justice Department channels.

The Rev. Dr. Bernard D. Loomer, dean of the University of Chicago Divinity School, was the spokesman for the group of clergymen who appealed personally to Mr. Eisenhower for clemency yesterday afternoon.

Afterwards, he said he got the impression the President's answer would be "no." Later, he issued a statement to 100 Protestant churchmen who had backed the appeal.

Received Graciously

"The President received us most graciously," he said. "He listened with close attention to our argument that clemency would be an indication of our national strength rather than our national weakness."

"The President referred to

his military experience during which he felt compelled to order an execution as a disciplinary measure and detested the violation of the military code."

Loomer said Mr. Eisenhower did not actually say what his decision on the clemency appeal would be, but seemed to indicate he would not grant it. Mr. Eisenhower rejected a similar plea Feb. 11.

White House press secretary James C. Hagerity said the President saw the clergymen because "they said they represented a large section of the nation's clergy." As for the President's reaction, Hagerity merely referred newsmen to his Feb. 11 statement.

Loomer offered two arguments against the execution: that it would lead to "martyrdom which is the best way of aiding Communism" and that it is "a symbol of weakness."

Bloch filed his 10-page clemency appeal with the Justice Department yesterday after visiting the Rosenbergs at Sing Sing with the couples sons, Michael, 10, and Robert, 6.

The appeal reiterated the Rosenberg claim of innocence and said "the guilt will be America's" if they are executed.

"We told the truth. We are innocent. The truth does not change," the Rosenbergs said.

Charge, Treason

By Robert C. Ruark

I have no way of knowing, as I write this, whether they'll pull the switch on the Rosenbergs on June 18, but in the interests of deterring further experiments in treason, I certainly hope so. The A-bomb secret-sellers have certainly had enough deferments, and, if they are guilty, they are as guilty as Hell and deserve the maximum reprimand.



Robert C. Ruark

I have known some nice murderers and jovial thieves, and have some sympathy for the stupid and momentarily insane. But a traitor is nine cuts lower than a snake, and he does his work on purpose, with malicious forethought. The Rosenbergs, Ethel and Julius, have been reviewed and re-reviewed until there cannot be any judicial doubt about their guilt. I think it's foolish to fiddle with it any longer, because it is now a matter for the man with the switch.

We have messed about with this reason business overlong. Last time I looked, Judith Coplon was at large and happily married, when according to common justice she was as arch a traitor as Benedict Arnold. A technicality—which may yet be removed—got her loose when her guilt was stamped on her forehead.

We have been pretty grand, in America, about taking the sweepings of the world and according them asylum. That is how we built the country. It is a good country, a fine, big, sometimes stupid, but honestly good country. I appreciate it the more because I am out of it so much. After you've seen some of the tinpot principalities and petty dictators in operation, you love your own land for its simple honesty and open opportunity.

You can come to this country and holler at your Congressman and scream about the police and

shoot at the President, and nobody sends the secret police to clap you into jail. You can raise all the ruckus you want to, if you're dissatisfied, and there are no concentration camps or Cossacks to ride you down. The Commies can yowl on the one side, and the McCartlys on the other, and the country lets it go.

To grossly betray it, to me, is the ultimate sin, worse than matricide or killing off your own young. Yet we have held still, for years and years, while a bunch of neurotic bubbleheads have done their very best to sell it, give it away, destroy it from within, or plunder it for purely personal satisfaction. It seems to me the time has come to jail the milder offenders and serve up the ultimate in retribution to the major ones.

A man or woman is a traitor, as Alger Hiss was a traitor, as Judith Coplon was a traitor, because of a burning desire to be a traitor. Whether you convict them of perjury, as with Hiss, or do not convict them at all, as with Coplon, does not lessen the treasonous intent. You have to be a traitor on purpose. It does not happen accidentally.

In the administration of capital punishment, intent must be clearly specified. In the case of the Rosenbergs, the intent was there, the action proven, the deed done. This last minute, maudlin, rigged appeal from little Mike Rosenberg, aged 18, to President Eisenhower is the final piece of audacity I wish to swallow. The Commies must figure us to be awful idiots to go for that "Is there a Santa Claus?" routine. The child can't know anything of the seriousness of the business his loathsome parents were mixed up in, and, if he did, he'd probably rather be an orphan.

The taking of life is a dangerous thing, and the idea horrifies me, but, when you consider that the Rosenbergs attempted to murder an entire nation, all of a sudden the death penalty seems a little mild.

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Night Edition

He Progressed Rapidly in Engineering

Second of *NY Herald Tribune* reviewing the atomic spy trial that brought death sentences to Julius and Ethel Rosenberg, now in Sing Sing's Death Row.

By NORMAN MONTELLIER

The cells in Sing Sing's Death Row are all the same. But two of the prisoners are markedly different.

Julius Rosenberg, 35, electrical engineer, is just one of several inmates in the men's wing of Death Row. His wife, Ethel, 37, is alone in the women's wing.

By their crime they are apart from the others in Death Row.

Unless there is a last-minute stay of execution, they will be the first American civilians to die for espionage—the first man and wife condemned together.

In 1951 they were sentenced as spies for having conspired to transmit U. S. atomic bomb secrets to Russia.

Communists and others have depicted them as persecuted progressives, victims of anti-Semitism, anti-Communism or war hysteria.

There have been charges they were improperly tried and illegally sentenced; that their crime wasn't espionage because Russia was a wartime ally; that it wasn't espionage because there is no "atomic secrecy" and the United States never knew anything the Russians didn't know first.

The Government has said many of the charges made about the trial and sentence have been factually false. Much misunderstanding has been fostered.

The Rosenbergs are products of Manhattan's Lower East Side, notorious as the home of some of America's worst criminals. Yet the squalid district has produced such men as Alfred E. Smith, David Barnoff, head of Radio Corporation of America, entertainers Eddie Cantor, Jimmy Durante and George Jessel, and artists Jo Davidson and Jacob Epstein.

The Rosenbergs themselves, by their own efforts, long far above the level of their poor beginnings.

Harry and Sophie Cohen Rosenberg came to New York in the early 1900s from Russia. Julius was born May 16, 1918. He went to a Hebrew school, then to public schools.

It was at Seward Park High School that he first met Ethel Greenglass. Her parents, Barnett and Tessie—he was Russian-born, she Austrian—came here about the same time as the Rosenbergs.

Small Home, Grimy Street

The Greenglasses moved into a small apartment on narrow, grimy Sheriff St. Barnett repaired sewing machines in a little shop in front of the living quarters. Tessie, now 70, still lives in the crowded cold-water flat where she reared four children—Louis, 43, Ethel, Bernard, 35, and David 30.

It was David Greenglass who was the star witness in the trial that sent Ethel to death row. Ethel called him "Cain."

Julius attended City College while Ethel worked as a stenographer after they finished high school. He was graduated as an electrical engineer in 1939 and that June he and Ethel were married.

In 1940 Rosenberg got a Civil Service job with the signal corps of the War Department's general depot in Brooklyn. Ethel worked for four months that year as a Civil Service clerk in Washington.

In 1941 Julius transferred to the Army Signal Corps and rose to engineering inspector in Philadelphia and New Jersey. The Civil Service post paid about \$3,000 a year. He was promoted later to a job paying nearly \$7,000.

In 1942 the Rosenbergs moved into a three-room apartment in a middle income Government housing project in Manhattan. They paid \$51 a month rent. Their home was still on the Lower East Side—but a long way from the childhood years of hardship.

In 1943 there was a faint sign of trouble. The signal corps suspended Julius when it was indicated he was a Communist—the Federal Bureau of Investigation had produced a party transfer card made out to Julius. He told friends then: "It could have been worse." It was five years later that he was charged with having been a spy in those wartime years.

Julius became owner of Pitt Engine Products, Inc., a small ground-floor machine shop, when he left the Civil Service. His employees said they never heard him discuss politics.

Things were going well. The Rosenbergs had two sons, Michael, now 10, and Robert, now 6. The business was doing well, the boys went to day camp in the Summer and the Rosenbergs vacationed outside New York.

Ethel's brother David in these years finished his

schooling and in 1941, at 21, was drafted and promptly married 20-year-old Ruth Fried. In 1944 he was sent to Los Alamos. A skilled machinist, he was in charge of a shop assembling parts for the atomic bomb.

In February, 1951, he was discharged. He and Ruth moved back into the old neighborhood. He was earning from \$75 to \$130 a week, depending on overtime. He and Ruth had two children.

Then the world of the Greenglasses and Rosenbergs fell in. First David, then Julius, then Ethel, then Ruth were arrested by the FBI for conspiring to commit espionage in wartime.

The indictment said the Rosenbergs had organized an espionage system, that they recruited David to get information from Los Alamos, that Ruth carried messages between them and David.

David confessed. This implicated the Rosenbergs—and also brought his wife, Ruth, under the shadow of death. While indicted as a co-conspirator, Ruth was freed without being tried after she cooperated with the FBI and testified at the Rosenberg trial. David drew leniency because of his cooperation and was sentenced to 15 years in jail.

The Rosenberg trial last 15 days in March, 1951. They were sentenced to die May 21. But appeals to higher courts—four times to the Supreme Court—and for judicial and Presidential clemency stalled the death verdict.

Although Communists and others have charged the Rosenbergs were tried in an atmosphere of "war hysteria," the Communist Daily Worker published nothing about the trial during March, 1951, and nothing about the hysteria supposedly prevailing then.

The first Daily Worker report of the trial came the day after sentence was pronounced when it headlined: "Rosenbergs Sentenced to Death, Made Scapegoats for Korean War."

The charge of anti-Semitism was dealt with more than a year ago when responsible Jewish organizations and individuals denounced the maneuver and pointed out that the presiding judge and the prosecutor were Jews.

Tomorrow It Would Have Been Different Behind the Iron Curtain.

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Thoughts on The Eve

By Max Lerner

The last-minute appeals of the Rosenbergs to the courts have been dramatic, but there is every sign that they will be futile. The same goes for the clemency appeal to President Eisenhower. There will be no more doors for the Rosenbergs to knock at. This looks more and more like the last mile for them.

I expect to be at Ossining Thursday night, reporting on the execution. I can think of very few tasks I like less. Meanwhile I want to set down here, as honestly as I know how, some thoughts on the eve of the execution.

I don't see how anyone can have strong doubts about the essential guilt of the convicted pair. The Communists in every country have spread the story that there was no evidence against them. That is not true. There was strong evidence of their recruiting David Greenglass for spying, evidence of the recognition signal for the meeting with Harry Gold, evidence of the plan for flight.

The argument that Greenglass lied to save his skin seems weak. He could save his skin better by telling the truth. Moreover, the truth could never backfire at him, while the lies might.

The most powerful criticism of the government's case is that of the atom scientist, Harold Urey. He says that Greenglass could not have known enough to submit the plans for the Atom-Bomb to his fellow-spies. He had neither the education nor training for it, nor was he in a position to gather the many complicated threads that formed a picture of the bomb.

This does not mean that Greenglass and the Rosenbergs were not spies. It means that the crime of the Rosenbergs was not as stupendous in its consequences as Judge Kaufman thought, and did not merit the unprecedented death sentence. It undercuts the whole base on which Judge Kaufman meted out a death penalty.

As I see it, this is not anything that the Supreme Court can do much about. It would be hard to show that the Rosenbergs have been denied due process of law, or that our judicial system failed to function. There were mistakes in judgment and policy. The greatest mistake in judgment was, I think, Judge Kaufman's. I say this with humility, and with respect for Kaufman's integrity. But the penalty could well have been 30 years rather than life. Given such a penalty, the whole worldwide Communist campaign to blacken America's image would have been futile.

This mistake of judgment was compounded by President Eisenhower's rejection of the first clemency plea. But it is not too late for him to reconsider it.

The President evidently feels that clemency now would be a sign of weakness on our part. I wish he had studied the history of nations and empires more carefully. It is only the weak nation that must put on a show of face-saving! Only a strong nation can afford to be generous. The President also seems to feel that the execution will deter other spies. He has only to study Julius and Ethel Rosenberg, read their letters, watch their behavior, to understand that they are of the type of Communist fanatics whom nothing could ever deter from serving their false cause.

I have been reading the "Death House Letters" which the Rosenberg Committee has published. They have a pathos in them, especially when the father and mother write to their two boys. But they are stilted and mechanical letters, that read like Daily Worker editorials. And the effort to exploit the boys themselves is another evidence that communism dehumanizes its soldiers.

I need scarcely repeat here what I have so often written—that only the Soviet cause will benefit from the execution of the Rosenbergs. They are worth far more to the Russians dead than alive. One of the clergymen who visited President Eisenhower put it well when he said that the case has by now become symbolic, and the symbolism of going through with the execution would be the worst kind. What is at stake is the image that world opinion will have of us. Let us not needlessly spoil that image.

I shall go to Sing Sing Thursday night believing that the Rosenbergs are guilty of espionage, despising their behavior for almost three years as Communist marionettes, but also believing that the death penalty for them is unwarranted, and convinced it is stupid. And whatever they did, I shall go with compassion.

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N. Y. POST

DATED JUN 17 1953

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Walter E. ...

Due Process of Law.

On the same day that the Supreme Court, for the fourth time, rejected pleas from the Rosenbergs, convicted atom spies, the high bench also turned down the appeals of five men convicted of murder.

All five of the accused have been sentenced to death.

In one case, involving three of the men, the murder occurred in a holdup. The other men were charged with rape and murder.

The Rosenbergs, Julius and Ethel, were convicted of betraying their country, the United States, to a hostile foreign power—Russia. Treason of this type, if successful, could involve the lives of many thousands of Americans, possibly even the fate of the nation itself.

In the opinion rejecting the appeal of the holdup-murderers, Justice Jackson said:

"We are not willing to discredit Constitutional doctrines for protection of the innocent by making them mere technical loopholes for the escape of the guilty. The petitioners have had fair trial and fair review."

And he also said:

"The people of the state are also entitled to due process of law."

When the Supreme Court acted on the Rosenberg case Monday, it did three extraordinary things: It voted 5 to 4 against a stay of execution. It then voted 7 to 2 against reviewing the trial. And then, after it had adjourned for the summer, reconvened, and turned down, 7 to 1, a Rosenberg plea for a writ of habeas corpus, another way of seeking a stay of execution.

But even all this was not conclusive.

Thereafter, Justice Douglas took it on himself to hear more arguments by the lawyers and, as this was written, still was pondering whether he should allow the Rosenbergs a respite from the electric chair.

Has society been accorded due process of the law in this case?

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Night Edition

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Rosenbergs Get News On Death House Radio

By HENRY BECKETT

Ossining, N. Y., June 17—Julius Rosenberg sat talking in a low voice through a heavy mesh screen to his brother, David.

In another part of the Death House visitors section, his wife, Ethel, talked to her husband's mother, Sophie, and his sister, Ethel Goldberg.

Then, over the Sing Sing Prison radio loudspeaker system came the news that Supreme Court Justice Douglas had granted a reprieve.

For the fourth time the Rosenbergs' date with death had been postponed.

The voices were silent for a few moments and then the talk through the screen resumed, high and excited.

Warden Willfred L. Denno and guards described the scene.

Denno said that up to the moment of the news the Rosenbergs, who were to have died tomorrow night, had seemed impassive and stoical.

"They may have been suffering," he said, "but they didn't show it. They were just the same as usual."

Four times a date has been set for their execution as atom spies, and four times they have slipped away from the shadow of death—but this was the closest.

Now, again the Rosenbergs must wait.

Mrs. Tessie Greenglass, mother of Ethel Rosenberg, heard the news of the reprieve today in her three-room apartment at 64 Sheriff St., New York City. "Thank God, they've got a stay," she said, smiling. She would say no more.

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U. S. Will Ask Full Court to Review Ruling

Execution Off Indefinitely
Unless Douglas Is Upset

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Spady edition

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[Handwritten initials]

By CHARLOTTE G. MOULTON,

United Press Staff Writer.

WASHINGTON, June 17.—Supreme Court Justice William O. Douglas today granted a stay of execution to atom spies Julius and Ethel Rosenberg, but it still was not definitely settled whether the condemned couple will escape the electric chair tomorrow night.

The Justice Department announced it will try to contest Justice Douglas' "unprecedented action" before an emergency session of the entire Supreme Court.

Within an hour after Justice Douglas made his dramatic ruling, Attorney General Herbert Brownell Jr. said he would ask Chief Justice Fred M. Vinson later today to convene the full court for a review of Justice Douglas' action.

Move Is Up to Vinson.

It will be up to Chief Justice Vinson to decide when—or whether—the full court will be called back into emergency session. It recessed Monday for the summer after turning down the Rosenbergs.

The government's hope was that it could get the full court to meet tomorrow and set Justice Douglas' decision aside. Although hopeful, Justice Department sources later said it is "doubtful" if the court can act in time for the executions to be carried out as scheduled.

Could Speed Decision.

If Justice Vinson grants Mr. Brownell's request, there still might be time to call a "special term" of the court and get a decision before the originally scheduled execution hour.

Five justices are in town and immediately available—Chief Justice Vinson and Justices Robert H. Jackson, Tom C. Clark, Harold H. Burton and Hugo L. Black. Justices Felix Frankfurter and Stanley F. Reed have left, but can return soon, their offices said.

Justice Douglas departed for the Pacific Northwest before his opinion was made public. Justice Sherman Minton also is away from Washington. Only six justices are required for a quorum of the court.

Justice Douglas, acting alone, reprieved the Rosenbergs because

Continued on Page 12.

Continued From Page One

"serious doubts" in his mind that the death sentence could be imposed in their case unless the jury recommended it. The jury had not done so.

36 Hours From Doom.

The Rosenbergs won the indefinite stay just 36 hours before they were scheduled to die in the Sing Sing electric chair at 11 p.m. tomorrow—their 14th wedding anniversary—for passing atomic secrets to Soviet Russia.

Justice Douglas said in an eight-page opinion that the stay would be effective indefinitely until one of the complex legal questions involved in the case can be determined in the lower courts.

The big question on which the Rosenbergs won their reprieve was whether the penalty provisions of the 1946 Atomic Energy Act superseded those of the espionage law under which they were convicted in March, 1951, and sentenced to die by Federal Judge Irving R. Kaufman of New York.

Justice Douglas said that in the Atomic Energy Act "Congress lowered the level of penalties" to permit a death sentence only on recommendation of the convicting jury.

Outsiders Win Stay.

Ironically, it was not the battery of Rosenberg lawyers who won the stay, but two outsiders who had been described earlier in the week by Judge Kaufman as "intruders and interlopers." They are Fyke Farmer of Nashville, Tenn., and Daniel G. Marshall of Los Angeles, who represented Irwin Edelman, a Los Angeles resident who had interested himself in the case. It was Mr. Farmer and Mr. Marshall who raised the issue of the Atomic Energy Act.

"Fyke Farmer deserves all the credit," Rosenberg lawyer John F. Finerty said.

Mr. Farmer had raised the same issue before Judge Kaufman, the trial and sentencing judge, earlier in the week. Judge Kaufman turned him down.

Defense Maps Action.

Chief defense attorney Emanuel H. Bloch announced that his next move will be to start action in New York Federal District Court.

Justice Douglas' action astounded Justice Department lawyers.

"This is unbelievable," one of them said of the ruling that the Atomic Energy Act might apply in the case.

Department lawyers said they at a loss to explain how Justice Douglas felt the 1946 law could have affected the Rosenbergs' espionage conspiracy, which took place before that law was enacted.

Act Changed Penalties.

But Justice Douglas noted in his opinion that the government's own indictment against the Rosenbergs, said their conspiracy started in 1944 but continued until 1950—after the enactment of the Atomic Energy Act, with its changed penalties.

Justice Douglas said the issue whether the Atomic Energy Act does or does not apply raises a "substantial" legal question "which should be decided after full argu-

ment and deliberation" in the lower courts.

Barring a reversal of Justice Douglas' stay by the full Supreme Court, the Rosenberg lawyers said it will take a long time—possibly as much as a year—to get a final decision on the question whether the death sentence was properly imposed.

Fourth Stay for Fair.

This was the fourth stay won by the Rosenbergs. The other three were granted by lower courts.

The Rosenbergs were tried under the Espionage Act of 1917 for crimes alleged to have been committed in 1944 and 1945. Under that act the penalty for violations committed in wartime can be death, or a maximum of 30 years in prison.

The Atomic Energy Act—which went on the statute books in 1946 after the crimes charged to the Rosenbergs but four years before their arrest and indictment—provides the death penalty in certain instances, but "only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States." If the jury does not recommend death, the maximum penalty is \$20,000 fine and 30 years in prison.

If the offender merely had "reason to believe" his act would hurt the United States and aid a foreign power, the maximum penalty is \$10,000 fine and 10 years' imprisonment.

The convicting jury had not recommended the death penalty. It made no recommendation. Judge Kaufman himself had imposed the death sentence.

Has "Serious Doubts."

It was on this issue that Justice Douglas granted the condemned husband-and-wife spy team at least a temporary reprieve.

"I have serious doubts whether this death sentence may be imposed for this offense except and unless a jury recommends it," Justice Douglas said. "The Rosenbergs should have an opportunity to litigate that issue."

Justice Douglas said it is important that the country "be protected against the nefarious plans of spies who would destroy us," but declared that:

"It is also important that before we allow human lives to be snuffed out we be sure—emphatically sure

—that we act within the law. If we are not sure, there will be lingering doubts to plague the conscience after the event."

Time was running out rapidly on the Rosenbergs when the justice intervened dramatically. The Rosenbergs only yesterday had said what they then thought were their last farewells to their two children—Michael, 19, and Robert, 6. And, in anticipation that the Supreme Court might turn them down, they had signed a petition for executive clemency to be presented to President Eisenhower.

Clemency Denied Seen.

Had Justice Douglas refused to intervene, it appeared almost certain that the Rosenbergs would have died on schedule, for Gen. Eisenhower indicated yesterday that he would not have granted clemency. He had refused them once before—on Feb. 11.

Justice Douglas, in his ruling said he did not decide whether the death sentence was properly imposed, but merely that there is a "substantial" legal question "which should be decided after full argument and deliberation."

The Supreme Court justices said the point about validity of the death sentence had not been raised in any of the earlier petitions presented to the court.

"The first reaction is that if it was not raised previously, it must have no substance to it," Justice Douglas said. "But on reflection it presents a considerable question. One purpose of the Atomic Energy Act was to ameliorate the penalties imposed for disclosing atomic secrets."

He said Congress had indicated the purpose of the law was to protect the national defense and yet assure "sufficient freedom of interchange between scientists to assure the nation of continued scientific progress."

Cites Congress Action.

Justice Douglas said the Rosenbergs "obviously were not engaged in an exchange of scientific information in the interests of science," but he held that "Congress lowered the level of penalties to protect all those who might be charged with the unlawful disclosure of atomic data."

"If the Rosenbergs are the beneficiaries, it is merely the result of the application of the new law with an even hand," the opinion said. "In any event, Congress prescribed the precise conditions under which the death penalty could be imposed. And all violators—Communists as well as non-Communists—are entitled to that protection."

The Rosenbergs won the dramatic stay from Justice Douglas after falling in three separate

moves before the full bench on Monday to obtain Supreme Court intervention. On Monday, the tribunal had refused a stay, turned down for the fourth time an appeal for a review of the case and denied a petition for a writ of habeas corpus that would have had the effect of delaying the execution. And last month, Chief Justice Vinson also had denied a stay.

After the court recesses—as it did last Monday—it is permissible for a single justice to consider, and grant, a stay of execution if he finds there are new considerations in a case that have not been presented before.

Rosenbergs Smile When News Arrives

Julius and Ethel Rosenberg, convicted atom spies, were talking separately with visitors shortly before noon today when they heard an announcement over Sing Sing Prison's central radio system that they had been granted a stay by Supreme Court Justice William O. Douglas.

Both smiled and became more cheerful than they had been. But they did not make any other outward display of emotion, Warden Wildred Denno said.

Other people smiled, too. A spokesman for the Committee to Secure Justice in the Rosenberg Case, a Communist-back front, announced late today it was canceling four "clemency trains" that had been chartered to transport Rosenberg supporters to Washington tomorrow for an appeal to President Eisenhower.

The committee had announced previously that thousands of people would make the journey from Pennsylvania Station at a special bargain rate of \$5 for the round trip.

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'Interloper' Won Stay for Spies

By the United Press.

WASHINGTON, June 17.—The legal "interloper" who won today's stay of execution for Julius and Ethel Rosenberg disclosed that he had tried vainly for three months to get the atom spies' own attorney to present the arguments that finally proved successful.

Fyke Farmer of Nashville, Tenn., was jubilant over the outcome of his legal efforts which he undertook, he said, without fee and solely "as a public service."

Mr. Farmer entered the case with Daniel G. Marshall, a Los Angeles attorney, in behalf of Irwin Edelman of Los Angeles, who had become interested in the Rosenbergs' fate.

In New York on Monday, Federal Judge Irving R. Kaufman—the judge who imposed the death sentence on the Rosenbergs—called Mr. Farmer and Mr. Marshall "intruders and interlopers."

Today the triumphant Mr. Farmer said, "Judge Kaufman may have us intruders and interlopers, but we came in quietly."

Mr. Farmer, who is 51, married and the father of four children, said that in working on the case "I thought of the two Rosenberg children," Michael, 10, and Robert, 6."

"My joy is that their father and mother are spared," he said.

One of the Rosenberg lawyers, John F. Finerty of New York,

said: "Fyke Farmer deserves all the credit" for what happened today. It was Mr. Farmer who thought of invoking the Atomic Energy Act of 1946 to support arguments against the death penalty imposed by Judge Kaufman under an entirely different law.

He said he had been trying "for the past three months" to get the Rosenberg lawyers to raise the same issue, "but they declined." Then he asked Emanuel H. Bloch, the chief Rosenberg attorney, to "support our point," but Mr. Bloch also refused to do that, Mr. Farmer said.

It was not the first time Mr. Farmer has worked for what he considered a worthy cause. He gave up a prosperous law practice in 1946 to campaign for world government. He had practiced in Nashville since 1924.

In his lapel, Mr. Farmer wears a button bearing the words, "Stop War." He has a suit pending in Nashville challenging the right of the federal government to collect income taxes for military purposes. He contends that war has been internationally outlawed.

Since 1946, Mr. Farmer said, "I've spent everything I had." He inherited "a little money last year but that's gone too."

Mr. Farmer said Mr. Edelman sent him about \$200 for expenses in traveling to New York and,

Washington in the Rosenbergs' behalf. He said he first became interested in the case when he read a pamphlet about it by Mr. Edelman, entitled "Freedom's Electrocution." Later they got together, he said.

When President Eisenhower rejected the Rosenbergs' original plea for clemency, Mr. Farmer said, he was "limp and stunned." Recalling the Congressional debate on the Atomic Energy Act's punishment sections, he went to work on that angle.

Mr. Farmer said he doesn't know what part he will play in the case from now on, although Mr. Bloch said he will consult the Rosenbergs about inviting him to participate in future court proceedings.

In any event, Farmer is going to New York to take care of "a few little things" and plans to "stick around there and see what happens in the case."

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Court to Act On Spy Stay By Douglas

Text of Justice Douglas'
Decision—Page 16

By Bert Andrews

WASHINGTON, June 17.—A special session of the United States Supreme Court will be held at noon tomorrow to decide whether to vacate a surprise stay of execution granted today to atom spies Julius and Ethel Rosenberg, who were scheduled to be put to death tomorrow night in Sing Sing prison.

Chief Justice Fred M. Vinson issued a call for a special term of the court, which had recessed for the summer on Monday, after Attorney General Herbert Brownell jr. had protested the stay granted by Associate Justice William O. Douglas.

The text of the court's announcement, issued soon after 6 p. m., follows:

"The Chief Justice directs that it be announced that the Supreme Court will convene a special term of the court on Thursday, June 18, at noon, in order that an application by the Attorney General to review the stay of execution of Julius Rosenberg and Ethel Rosenberg, granted by Mr. Justice Douglas, or to reconsider and reaffirm this court's order of June 15, denying a stay, may be considered."

A quorum of six of the nine members is needed for a decision. It was not known at once how many would be available. Justice Douglas left for Oregon last night, leaving behind the eight-page stay decision which was released this morning.

May Die as Scheduled

Chief Justice Vinson and Associate Justices Tom C. Clark, Robert H. Jackson, Harold H. Burton and Hugo L. Black are in Washington. Associate Justices Felix Frankfurter and Stanley F. Reed were out of town, but their offices said they could return soon. No information was immediately available as to the whereabouts of Justice Sherman Minton.

(The Associated Press quoted the operator of a motel near Uniontown, Pa., as saying Justice Douglas registered there last night, but left shortly afterward for Washington after hearing a radio report of Justice Vinson's action.)

If a majority of a quorum overrules Justice Douglas, the decision may mean that the Rosenbergs will die as scheduled at 11 p. m. tomorrow. If he is upheld, or if the court decides further hearings are needed on the points raised by Justice Douglas, the whole court may
Continued on page 17, column 1

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J.H.

Rosenbergs

(Continued from page one)

decide to grant a stay for that specific reason.

In any event, the hearing tomorrow will be a comprehensive affair with the court hearing arguments by attorneys on both sides. Immediately after Justice Vinson called the special session, court attaches began notifying the attorneys concerned that they would be heard.

Justice Douglas ordered the stay solely to give the Federal District Court in New York and the Court of Appeals an opportunity to decide whether the death sentences on Rosenberg, thirty-five, and Mrs. Rosenberg, thirty-seven, were legally imposed. That question, in turn, rested on whether the atomic energy act of 1946 superseded the 1917 espionage act so far as the death penalty provisions affected the Rosenberg case.

Many Senators and Representatives tossed angry remarks in the direction of Justice Douglas. Rep. W. M. Wheeler, D., Ga., introduced a resolution calling for the impeachment of Justice Douglas for "high crimes and misdemeanors in office" for granting the stay. He also asked the House Judiciary Committee to consider whether Justice Douglas' move requires "the interposition of the constitutional power of the House," which meant the same thing—a call for impeachment.

See Little Chance

Most legislators who commented thought there was little chance of impeachment, but the anti-Douglas ones made it clear he would be the target for much denunciation for some time to come.

President Eisenhower, who in February declined to pardon the Rosenbergs on the grounds they were "worse than murderers"—since a murderer usually kills only one person, whereas they "betrayed an entire nation" by giving atomic secrets to Russia—did not comment. A spokesman said Mr. Brownell did not confer with the President today before asking Justice Vinson to convene the court. The spokesman would not say whether Mr. Brownell conferred with any one else at the White House today.

The heat engendered by Justice Douglas' action was illustrated when Rep. Wheeler was applauded by many in the House when he introduced his resolution and by such statements as:

Rep. Patrick J. Hillings, R., Calif.—"Immediate steps must be taken to prevent the Rosenbergs from cheating justice."

Sen. John W. Brieker, R., Ohio—"It seems an incredible situation where one judge overrules the judgment of a court of which he was a member." This was a reference to the prior refusals of the court as a whole to grant stays.

Sen. Willis Smith, D., N. C.—"I am very disappointed that the verdict of the jury and the decisions of the various courts have been upset in this fashion."

Sen. George A. Smathers, D., Fla.—"Douglas' order was unjustified. It will be very discouraging to the boys fighting in Korea."

Justice Douglas, in his eight-page decision, made these points:

That the Rosenbergs were tried under the Espionage Act.

That the Justice Department maintained that the Espionage Act was applicable because all of the overt acts alleged took place before the passage of the Atomic Energy Act of 1946.

That the Atomic Energy Act provides that the death penalty or imprisonment for life "may be imposed only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States."

He pointed out that counsel intervening in the Rosenbergs' behalf argued that the provisions of the 1946 act should apply because the indictment was returned after the passage of the act, and because the alleged conspiracy of the Rosenbergs, while starting before the enactment, continued after it.

Justice Douglas said: "If the Atomic Energy Act of 1946 is applicable to the prosecution of the Rosenbergs, the District Court unlawfully imposed the death sentence . . . as the jury did not recommend the death penalty nor did the indictment charge that the offense was committed with an intent to injure the United States."

Appeal to Conscience

As if aware of the uproar his ruling would cause, Justice Douglas said: "It is important that the country be protected against the nefarious plans of spies who would destroy it. It is also important that before we allow human lives to be snuffed out we be sure—emphatically sure—that we act within the law. If we are not sure, there will be lingering doubts to plague the conscience after the event."

Attorney General Brownell's petition to the full court to throw out the stay contended that the Atomic Energy Act was not intended in any way to repeal the Espionage Act, and that the Espionage Act was applicable in the Rosenberg case.

The department asked the court to reach a final determination "as expeditiously as possible."

"Mindful of Human Lives"

"The government is fully mindful that human lives are at stake, and that in no circumstances should the extreme penalty of the law be exacted until the fullest measure of justice and due process of law has been

afforded," the petition said.

"The government is not asking that the court act with unseemly haste to avoid postponement of a scheduled execution. On the contrary, we are convinced that the only conclusion which fair-minded persons could draw from the history of this case is that, after a fair trial, in which guilt was clearly established, and after successive appeals to this court, and the Court of Appeals—in which they had every opportunity to present every contention of law and fact to support their position—proved without avail, the defendants have now received the fullest measure of justice and due process of law.

"Further postponement would not serve the interests of justice. Respect for the orderly processes of law can not help but be impaired by a parade of repeated unmeritorious appeals, each new one presenting only an insubstantial variation from its predecessors."

Takes Issue With Douglas

The Justice Department took issue with Justice Douglas' contention that the validity of the death sentences had not been raised in any of the five earlier petitions to the court.

On this point Justice Douglas said in his ruling that if it had not been for the new points raised, he could not "responsibly" have granted a stay on grounds the court had already rejected.

The department said the full court has the power to vacate the stay. It said the department knew of no case in which the Supreme Court or a Court of Appeals "has refused to entertain application to review and vacate a stay granted by a single justice or judge."

Rosenberg Slay Aided By Ex-Red

By Jack Steele

WASHINGTON, June 17.—An obscure Los Angeles "pamphleteer" whose activities led to the stay of execution granted to Julius and Ethel Rosenberg disclosed today that he had been expelled by the Rosenberg defense committee for what he described as his effort to expose "blunders" in the legal defense of the atom spies.

Irwin Edelman, a former New York book shop owner who was interviewed by telephone in Los Angeles, freely conceded that he was a former Communist, but said he had been expelled from the Communist party in 1947.

He said he had never seen or met the Rosenbergs, although he was described in legal actions filed in their behalf as their "next friend," a legal formality, and insisted that he had intervened in their case "solely in the interests of justice."

Mr. Edelman said he joined the Committee to Secure Justice in the Rosenberg case early in 1952 and received a notice of his expulsion in November, three days before he published a pamphlet on the case entitled "Freedom's Execution."

"I believe I was expelled because the committee knew I intended to expose the blunders made by the Rosenberg defense attorneys," he said. "Every effort has been made by the committee since November to discredit my activities as representing F. B. I. interference in the case."

Mr. Edelman's pamphlet was read by two attorneys, Pyke Farmer, of Nashville, Tenn., and Daniel C. Marshall, of Los Angeles, and first stirred their interest in the Rosenberg case.

It was through the intervention of Messrs. Farmer and Marshall in the case, after Mr. Edelman brought them together, that Associate Justice William O. Douglas was induced today to grant his stay of the Rosenberg execution.

Steps Opposed by Bloch

Messrs. Edelman, Farmer and Marshall all agreed today that they had taken the steps which led to the stay of execution over the strenuous objections and opposition of Emanuel H. Bloch, the chief defense counsel, and the Rosenberg Defense Committee.

John H. Finerty, one of the Rosenberg defense lawyers, had this comment, however, on their role in winning a stay from Justice Douglas: "Pyke Farmer deserves all the credit."

Messrs. Farmer and Marshall were jubilant, and perhaps just a little surprised by their sudden fame, as they described how they happened to get into the Rosenberg case. In a joint interview this afternoon.

Mr. Farmer, who is fifty-one, said he had appeared before the Supreme Court only once before in his career and had given up his active law practice in Nashville in 1946 to devote his time to promoting the cause of world government.

He described himself as a pacifist and said he was now involved in a suit with the Federal government as a result of his refusal to pay two-thirds of his income taxes on grounds that the money would be used for war.

Mr. Marshall, who said he has a general practice in Los Angeles, said he had never appeared before the Supreme Court before and, indeed, had not even been admitted to practice before the high court.

Would Address Full Court

They were asked: "What do you intend to do next?" by a reporter who had in mind what further legal steps they might be contemplating.

"I'm going to have a couple of beers," Mr. Marshall responded. The two attorneys hastily added, however, that they would like to present their arguments to the full Supreme Court if Chief Justice Fred M. Vinson should reconvene the court, as requested by Attorney General Herbert Brownell jr.

"I can suggest a quicker way to Brownell," Mr. Marshall noted. "Why doesn't he just

ask his friend Sen. Joe McCarthy to subpoena Justice Douglas?"

Mr. Edelman was bitter about the Committee to Secure Justice in the Rosenberg Case and the regular defense lawyers. He charged that the defense of the Rosenbergs had "verged on sabotage" because of what he called the unwillingness of the committee leaders and the defense attorneys to "admit their mistakes."

He asserted that Mr. Bloch and others representing the defense committee had been "cold" toward any suggestions of help from outside sources. He added that some committee leaders seemed "more interested in their own positions than in saving the Rosenbergs from execution."

Mr. Edelman, who is not an attorney, emphasized that, despite his dispute with the Rosenberg Defense Committee, he did not regard the committee as "Communist dominated," adding that the Communist party had only become active in the defense efforts in the last few weeks.

Mr. Edelman said he preferred to call himself a "pamphleteer" although he is also a printing salesman. He said he had lived in New York for many years and operated a book shop there from 1928 to 1933. He moved to Los Angeles in 1948, he said.

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ROSENBERGS GAIN A STAY; REVIEW SET

COURT ACTS TODAY

Douglas Grants Delay on Basis of Doubt the Sentence Is Valid

Text of Justice Douglas' order
in Rosenberg case, Page 16.

By LUTHER A. HUSTON
Special to THE NEW YORK TIMES

WASHINGTON, June 17—Justice William O. Douglas of the Supreme Court stayed the death sentence of Julius and Ethel Rosenberg today, but Chief Justice Fred M. Vinson called a special term of the court for noon tomorrow to review the stay.

Execution of the death sentence on the condemned couple, who were convicted of conspiracy to violate the Espionage Act, had been set for 11 o'clock tomorrow night in Sing Sing prison.

Justice Vinson, in convening the special term for tomorrow, acted upon the application of Herbert Brownell Jr., the Attorney General. Mr. Brownell asked the high court to reaffirm its ruling of last Monday refusing to stay the death penalty.

A quorum of six justices is required for a special term and it was understood that at least six of the nine members of the court were in Washington or near enough to reach here by noon tomorrow.

Justice Douglas left here for Oregon after releasing his opinion granting the stay. He was reported late tonight to have received word of the special term while traveling by automobile in Pennsylvania and to have made plans to fly back here.

Speculation in Capital

There was considerable speculation in Washington tonight as to whether his associates on the high court would administer to Justice Douglas what would be widely interpreted as a rebuke by setting aside his order, or would agree with him that a stay of execution was warranted until the courts could decide a new point of law upon which he based his action.

While no competent authority would venture either to predict what the court would do or what the effect of its ruling might be on the fate of the Rosenbergs, a prevalent view was that, if the full court tomorrow should set aside Justice Douglas' order, the execution probably would be carried out tomorrow night in accordance with original court orders.

Justice Douglas based his order solely upon a point of law that had not hitherto been presented to the high court. This point was whether Federal Judge Irving R. Kaufman had power to impose the death penalty unless it had been recommended by a jury.

The challenge to Judge Kaufman's power was raised by two obscure lawyers who were not even counsel for the Rosenbergs. When they sought to present it in Judge Kaufman's court in New York on Monday he refused to hear it, calling them "intruders and interlopers" who had no standing in the case. Yet they, and not the imposing battery of lawyers that officially represented the Rosenbergs, prevailed with Justice Douglas and brought about a strange and confused situation that veteran officials of the court said had never arisen before.

Atomic Energy Act Cited

Fyke Farmer of Nashville, Tenn., and Daniel G. Marshall of Los Angeles were the lawyers. They presented to Justice Douglas the contention that the General Espionage Act of 1917, under which the Rosenbergs were sentenced, had been superseded by Section 10 of the Atomic Energy Act, passed in 1946.

That section provides that "the death penalty or imprisonment for life may be imposed [in espionage cases] only upon recommendation of the jury and only in cases where the offense was committed with intent to injure the United States."

If that provision were applicable, Justice Douglas said in a written opinion, the District Court was without power to impose the death penalty. He granted the stay of execution until the District Court and the Court of Appeals could determine the applicability of Section 10 to the Rosenberg case.

"The Rosenbergs," Justice Doug-

Continued on Page 16, Column 3

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HIGH COURT TO OCT ON STAY FOR SPIES

Continued From Page 1

he said, "should have an opportunity to litigate that issue."

In addition to provoking action by the Attorney General that resulted in a special term's being called for the third time in the history of the court, according to experienced officials of the tribunal, Justice Douglas' action drew sharp public criticism.

Representative W. W. Wheeler, Democrat of Georgia, introduced in the House of Representatives a resolution for the impeachment of Justice Douglas. It read:

"That William O. Douglas, Associate Justice of the Supreme Court of the United States, be impeached of high crimes and misdemeanors in office."

Later Mr. Wheeler introduced a second resolution that would authorize the Judiciary Committee to "inquire into and investigate the official conduct" of Justice Douglas to determine if he has been guilty of "any high crimes or misdemeanor" that would warrant impeachment proceedings.

The Representative said that the second bill would give Justice Douglas "his day in court if he wants it."

Prompt Hearing Promised

Representative Chauncey W. Reed, Republican of Illinois, chairman of the Judiciary Committee, said that the committee would give Representative Wheeler a prompt hearing on his resolutions.

Telegrams and telephone calls, most of them highly critical of Justice Douglas' action, began arriving at the Supreme Court almost immediately after the news of the stay reached the public.

A suggestion that the Rosenbergs be subpoenaed to testify before a House Judiciary subcommittee regarding their knowledge of espionage in the United States was offered by Representative Patrick J. Hillings, Republican of California, a member of the subcommittee. That group has been investigating the Department of Justice for nearly two years.

The announcement that Chief Justice Vinson had convened a special term was made shortly after 6 P. M., an hour after Mr. Brownell's application had been filed with the Clerk of the Court. A court attaché issued the following:

"The Chief Justice directs that the Supreme Court will convene a special term of the court on Thursday, June 15, at noon, in order that an application by the Attorney General to review the stay of execution of Julius and Ethel Rosenberg, granted by Mr. Justice Douglas, or to reconsider and reaffirm the court's order of June 15, denying a stay, may be considered."

It was understood today that Justices Robert H. Jackson, Tom C. Clark, Harold H. Burton and Hugo L. Black were in Washington and that Justice Stanley F. Reed was near by and could return for the special session. These, with the Chief Justice, would comprise a quorum. It was not learned whether Justices Felix Frankfurter and Sherman Minton were here or near enough to arrive in time for the session.

Justice Douglas, in his opinion, made it clear that he was not overriding the action of the full court in refusing to stay the execution.

"While I differed with the court and thought the case should have been reviewed, the court has spoken and I bow to its decision," he said. "Although I have the power to grant a stay, I could not do so responsibly on grounds the court already has rejected."

The Rosenbergs were indicted, Justice Douglas pointed out, under the General Espionage Act, Section 32 of which provided that whoever violated its provisions against espionage for a foreign country in time of war should be punished by death or imprisonment for not more than thirty years.

The indictment was returned in 1951 but the overt acts charged against the Rosenbergs were alleged to have taken place in 1944 and 1945. The Atomic Energy Act became effective on Aug. 1, 1946.

"If the Atomic Energy Act of 1946 is applicable to the prosecution of the Rosenbergs," Justice Douglas said, "the district court unlawfully imposed the death sentence."

The contention of the Department of Justice is that the atomic act is not applicable because the overt acts charged to the Rosenbergs were committed before its enactment.

Later Conspiracy Noted

Mr. Farmer and Mr. Marshall, however, pointed out that, although the overt acts were in 1944 and 1945, the indictment also charged that the conspiracy of which those acts were a part continued from June 6, 1944, to June 16, 1950, and that, since the conspiracy continued after the passage of the atomic act, the lighter penalties of the newer law should apply.

Justice Douglas found that the Government's case against the Rosenbergs showed acts "in pursuance of the conspiracy" and after the new act became effective.

"I do not decide," he said, "that the death penalty could have been imposed on the Rosenbergs only if the provisions of Section 19 of the Atomic Energy Act of 1946 were satisfied. I merely decide that the question is a substantial one which should be decided after full argument and deliberation."

"It is important that the country be protected against the nefarious plans of spies who would destroy us."

"It is also important that before we allow human lives to be snuffed out we be sure—emphatically sure—that we act within the law. If we are not sure, there will be lingering doubts to plague the conscience after the event."

"In any event," Attorney General Brownell said, in his application for a special term, "none of the acts alleged and proved in this case could have violated the Atomic Energy Act since the transactions relating to atomic energy occurred before the passage of that act in 1946 and the subsequent events did not relate to atomic energy. Thus it is clear that under the facts of this case the indictment could be maintained only under the espionage statute."

Mr. Brownell also told the Chief

Justice in his application of "It is important in the interest of the administration of criminal justice and in the national interests that this case be brought to a final determination as expeditiously as possible."

Tomorrow's special session of the high court could bring about the result Mr. Brownell bespoke.

When Mr. Farmer and Mr. Marshall presented their plea to Judge Kaufman, it was opposed by Emanuel H. Bloch, principal lawyer for the Rosenbergs, and his associates. Yesterday, while Justice Douglas was considering the petition, they shunned the lawyers from Nashville and Los Angeles.

There was still some restraint in the relations between the Rosenberg group and the "interlopers" today. Somewhat ruefully, Mr. Bloch and his associates gave credit to Mr. Farmer, in particular, for getting from Justice Douglas the ruling that caused the Rosenberg forces unbounded joy.

Bloch Praises Farmer

"Farmer won it," Mr. Bloch said. "The congratulations should go to him."

Mr. Bloch said that he was confident that the eventual result of Justice Douglas' ruling would be that "the Rosenbergs will prove their innocence."

The Rosenberg lawyers acknowledged that they had not raised in their previous petitions to the Supreme Court for a review of their clients' conviction the point on which Mr. Farmer and his colleague won the victory.

James C. Hagerty, White House press secretary, said that the Attorney General had not conferred with President Eisenhower or Bernard J. Shanley, White House special counsel, on his request to the Chief Justice for a special term.

Pickets who had marched in front of the White House for several days under auspices of the National Committee to Secure Justice in the Rosenberg Case were withdrawn after Justice Douglas' ruling was announced.

ROSENBERGS GET NEWS

First Hear of Stay in Broadcast Over Prison Speaker System

Julius and Ethel Rosenberg, convicted atom spies, first heard that their execution had been stayed when the 11:30 A. M. news was broadcast yesterday over a central radio speaker in Sing Sing Prison at Ossining.

Rosenberg and his brother, David, a visitor, separated by a heavy mesh screen, were talking quietly in one section of the death house. In another section, Mrs. Rosenberg was visiting with Mrs. Sophie Rosenberg, mother of Julius, and Mrs. Ethel Goldberg, sister of Julius.

Warden Wilfred L. Denno did not receive official word of the stay until later in the day. Shortly

Douglas, in Pennsylvania, Is Returning for Session

UNIONTOWN, Pa., June 17

UP—The operator of a motel near this mountainous western Pennsylvania town said Justice William O. Douglas of the Supreme Court had registered at his motel tonight and then learned by radio that a special session of the court had been called in the Rosenberg case.

Malcolm B. Hazlett said Justice Douglas started almost immediately by auto for Pittsburgh. "He told me he was getting a plane to return to Washington," Mr. Hazlett said.

Mr. Hazlett said Justice Douglas, traveling alone, had signed the motel register as "William Douglas." He added:

"I was showing him to his motel when something came over the radio and he said, 'Let me listen to this.' It was a broadcast about the special court session tomorrow. Mr. Douglas then made some phone calls and said he was driving back to Pittsburgh [about fifty miles from Uniontown] and would have to catch a plane for Washington."

before 2 P. M. he received a telegram for each of the convicted spies from their attorney, Emanuel H. Bloch. About the same time he was notified by the Department of Justice that the stay was in effect, he said.

The warden said he then told the Rosenbergs of the stay and delivered Mr. Bloch's telegrams. Each said "thanks," he reported, but gave no outward sign of emotion.

In New York the National Committee to Secure Justice in the Rosenberg Case said the stay granted by Justice William O. Douglas moved the case "to an ultimate decision based on fact and law rather than on passion and prejudice."

Upon hearing of the Douglas decision, the committee at first canceled trains that it had engaged for thousands of persons to travel to Washington "to plead with President Eisenhower for clemency for the Rosenbergs." Last night, however, when it learned that the full court would meet today if rescheduled a train for 9 A. M. It said several thousand persons were expected to go to the capital by train, bus and plane from all parts of the country "for a lobbying task in Washington in view of the special Supreme Court session."

Federal Judge Irving R. Kaufman, who had sentenced the Rosenbergs, said he had no comment to make regarding the latest development in the case.

Another bomb threat warning against the judge's life was telephoned to the police last night. It came from a man who said he

lived at 1185 Park Avenue, the building in which Judge Kaufman resides. The call, received at Brooklyn Police Headquarters at 10:08 o'clock, warned that a bomb would be exploded in the apartment building within fifteen minutes. The call was relayed to Manhattan and bomb squad detectives and patrolmen searched the building in vain.

A twenty-four-hour police detail has been on duty at the building. A previous bomb threat against the judge's life was made last Saturday.

CONCERN VOICED ABROAD

French President Conveys His Views to U. S. Indirectly

In London, The Manchester Guardian said yesterday that President Eisenhower should reprove Julius and Ethel Rosenberg, if only to deprive the Communists of a pair of made-to-order martyrs.

Meanwhile, it was disclosed in Paris that France's President Vincent Auriol had expressed his concern—in a roundabout diplomatic way—about the fate of the convicted couple. He did this, it was said, by writing a letter to Acting Foreign Minister Georges Bidault, who in turn showed it to United States Ambassador C. Douglas Dillon. The Ambassador passed the comment to President Eisenhower through the State Department, authoritative sources said.

From Rome it was reported that the Federal Council of Italian Evangelical Churches had cabled President Eisenhower urging him "to be great in your mercy and spare the lives of the Rosenbergs."

The police had to be called to disperse several hundred demonstrators in front of the United States Consulate in Milan. In Genoa, too, hundreds of persons crowded around our consulates there.

In Toronto the National Committee to Save the Rosenbergs announced that vigils would be kept in front of consulates in Canada until a final decision in the case is reached.

In Guatemala a group of persons staged a small demonstration in front of the United States Embassy in Guatemala City to ask that the lives of the Rosenbergs be spared.

Demonstrations also took place in Paris and London last night. In Paris, a Communist-backed open air mass meeting was held in the broad Place De La Nation to urge that the lives of the Rosenbergs be spared. In London, 2,000 men and women demonstrated in the streets near the United States Embassy on Grosvenor Square demanding clemency for the pair.

From Buenos Aires came a report that the Radical party, sole Argentine opposition group of any size, had cabled President Eisenhower asking him to commute the death sentences.

House Cheers Move To Impeach Douglas

From THE NEWS Bureau

Washington, D. C., June 17.—Generally bitter Congressional reaction to Supreme Court Justice William O. Douglas' stay of execution for the Rosenbergs was highlighted today by a demand in the House for his impeachment—greeted by heavy applause.

Representative W. M. (Don) Wheeler (D-Ga.), in calling for the impeachment, accused Douglas of "yielding to the vociferous minority pressure groups" after the Rosenbergs had been turned down "two or three times by the full court."



Representative Wheeler

Wheeler's resolution stated simply: "That William O. Douglas, Associate Justice of the Supreme Court of the United States, be impeached for high crimes and misdemeanors in office."

Chairman Chauncey W. Reed (R-Ill.) of the House Judiciary Committee said the only grounds for impeachment under the Constitution are treason, bribery and high crimes and misdemeanor. Misdemeanor can mean actions like "drunkenness," arrogance and other activities that tend to degrade the high office," Reed said.

He said that if the impeachment

resolution is referred to his committee before its meeting tomorrow, he will bring it up immediately and probably refer it to a subcommittee for possible hearings.

Representative Patrick J. Hillings (R-Calif.), a member of the Judiciary Committee, suggested that the Rosenbergs be called to testify before a House committee. He said that they "might talk and thereby furnish our country with valuable information relative to espionage activities of themselves and others in the hope that their death sentences might be commuted."

The ranking Democrat of the House Judiciary Committee, Representative Emanuel Celler (N. Y.), called Wheeler's action "an undue and unwarranted interference with the procedure of the courts."

Wants Investigation.

Wheeler, besides his impeachment resolution, later introduced another ordering the House Judiciary Committee to determine whether Douglas "has been guilty of any high crimes or misdemeanors which in the contemplation of the Constitution requires

the interposition of the constitutional power of the House."

This resolution directed the committee to "inquire into and investigate the official conduct of William O. Douglas, as an Associate Justice of the Supreme Court of the United States of America. . ."

It also directed the committee to decide whether Douglas should be impeached, or what other course of action should be taken.

The committee could summon witnesses and hold hearings. It was authorized to spend \$25,000 for the investigation.

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ROSENBERG TRAGI-FARCE

Supreme Court Associate Justice William O. Douglas, whose official acts and utterances are seldom displeasing to Communists, yesterday granted a stay of execution to Ethel and Julius Rosenberg. The Government moved at once for a reversal and the Supreme Court will meet at noon today to review Douglas' decision.

The case of these atomic spies has had the utmost consideration in U. S. courts. They were convicted of wartime espionage at a fair and impartial jury trial. The Supreme Court has carefully considered four appeals from that conviction, and has turned them all down.

Legalistic Mr. Douglas Yet Justice Douglas at this late date searches his mind and discovers therein a doubt that these persons were tried and sentenced under the proper law—the Atomic Energy Act of 1946. He admits that his decision is purely legalistic, while he claims to be in favor of protecting the country "against the nefarious plans of spies who would destroy us."

No less a person than President Eisenhower said last February, in denying executive clemency, that the Rosenbergs' crime "far exceeds that of taking the life of another citizen . . . and could very well result in the death of many, many thousands of innocent citizens."

In our opinion, Douglas yesterday did his best to make a monkey of American justice. What he made of himself is best left to the imagination.

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Original Edition

News Arrives As Pair Say Goodbye

By HARRY COREN

The news of their stay of execution in the electric chair reached Julius and Ethel Rosenberg yesterday morning as they sat in separate quarters of the Sing Sing death house saying their final goodbyes through heavy mesh screens to Rosenberg's mother, sister and brother.

It was not an official announcement from prison officials that notified the condemned atom spies they had been saved again—the fourth time in two years. Rather it was the voice of a radio announcer, who interrupted a regular program being broadcast over the prison loudspeaker system, that brought them the tidings of a renewed, if temporary, lease on life.

NOR WAS THERE any official observer to record the reactions of the couple whose 14th wedding anniversary today was scheduled to be their last day on earth. But prison guards, who have remarked on the impassive, stoical attitude of the Rosenbergs during their imprisonment, reported to Warden Wilfred L. Denno that their tough exterior had been cracked—somewhat.

Julius Rosenberg, saying farewell to his brother David, was reported to have taken a deep breath. There was a silence as the words of the announcer sank in. Then the tenseness seemed to drain out of his face.

Ethel, talking to her mother-in-law, Mrs. Sophie Rosenberg, and her sister-in-law, Mrs. Ethel Goldberg, closed her eyes. Guards said she smiled.

Then, the voices were heard

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Rosenbergs Get News of Stay

Continued from Page 3

again. This time, they were higher and excited. Guards said they heard half sobs, half laughter.

LATER, AFTER HE had received official notification from the Justice Department that the executions had been stayed, Denno formally gave the news to the Rosenbergs. At the same time he handled them separate telegrams from their attorney, Emanuel Bloch, notifying them of the latest developments.

"They said, 'Thanks,'" Denno remarked. "They seemed glad, but made no special comment." Tuesday night, the warden said, while Justice Douglas was wrestling with the problem of whether to grant a stay of execution, the Rosenbergs ate their usual meals and seemed to sleep well.

"They may have been suffering," he said, "but they didn't show it. They were just the same as usual."

BECAUSE OF the elder Mrs. Rosenberg's ill health, the car which brought them to the prison was permitted to pick her and the other two visitors up at the very entrance of the administration building. Ordinarily, visitors must walk a short distance to a gate and sentry point.

After their meeting, the elder Mrs. Rosenberg said the couple planned an ice cream and cake "celebration" in the death house last night.

The Rosenbergs were first sentenced to die by Federal Judge Irving R. Kaufman during the week of May 21, 1951, but an appeal to the Supreme Court caused an indefinite postponement. In November, 1952, Kaufman scheduled the execution again for Jan. 14, 1953. Nine days before that date Kaufman granted a stay to allow an appeal to the President.

After this was turned down, Kaufman again fixed the execution time for the week of March 9. Another appeal to the Supreme Court caused another postponement. Then, after the court refused to review the case, Kaufman set the execution for today.

IN FEDERAL COURT here, Kaufman told newsmen he had no comment to make on Justice Douglas' action. A spokesman for the Committee to Secure Justice in the Rosenberg Case announced it had canceled "clemency vigil" trains which were to have left for Washington today.

The stay order "dumbfounded" members of the U. S. Attorney's staff who had participated in the Rosenberg conviction. Refusing to be quoted directly, they were convinced Douglas would be over-ruled today.

"I CAN'T IMAGINE what went through his mind," one member of the team said. "He seems to feel that the Rosenbergs should have been tried under the 1946 Atomic Energy Act.

"That's preposterous. The Atomic Energy Act was not in existence when the crime was committed. How can a non-existent statute be applicable?"

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By WILLIAM KERWIN

WASHINGTON, June 17 (INS).—Chief Justice Vinson announced tonight that the Supreme Court will meet in special session at 12 noon (EDT) tomorrow to review the stay of execution of Julius and Ethel Rosenberg granted by Justice Douglas today.

Vinson acted quickly on an application by Attorney General Brownell who petitioned the court to overthrow Douglas' ruling which would indefinitely postpone the scheduled electrocution of the Rosenbergs in Sing Sing prison at 11 p. m. (EDT) Thursday.

DOUBTED LEGALITY

VINSON ORDERED the court reconvened within two hours of receiving Brownell's application. The Chief Justice announced the high bench will meet "in order that an application by the Attorney General to review the stay of execution of Julius Rosenberg and Ethel Rosenberg granted by Mr. Justice Douglas, or to reconsider and reaffirm this court order of June 15, denying a stay, may be considered."

THE SPECIAL MEETING of the high court will be open and attorneys representing all sides will be present to argue the case.

The day's rapid-fire developments left completely up in the air whether the Rosenberg couple will be executed on schedule.

The high court, on June 15, voted 5 to 4 to affirm the death sentence for the Rosenbergs. Some of the justices who participated in the original hearing are no longer in the capital, which might cause a shift in the vote.

Douglas, in an eight-page opinion, said he acted because of his "serious doubt" that the death sentence was legal, since it was imposed without recommendation of the jury which convicted the couple of passing U. S. atomic secrets to Russia.

DOUGLAS' SURPRISE ORDER brought sharp reaction in Congress. Rep. Wheeler (D-Ga.) introduced two bills calling for the

Continued from Page 3

impeachment of the jurist and an investigation of his conduct on the high bench. The impeachment resolution charges Douglas with "high crimes and misdemeanors in office."

In Sing Sing Prison, Warden Denno was notified of the stay and said the Rosenberg couple was "very happy" when he brought them the news.

Brownell's application declared: "We believe that the paramount public interest in the prompt and effective administration of criminal justice requires that this court hear and determine the matter as expeditiously as possible."

THE PETITION made these three legal points:

1. "The court has power to, and should, review and vacate the stay granted by Mr. Justice Douglas."
2. "In the alternative, the court should reconsider its order of June 15 denying a stay in the light of the new ground on which Mr. Justice Douglas acted."
3. "The Atomic Energy Act casts no substantial doubt on the validity of the death sentence in this case."

Douglas' historic decision hinged on the fact that the Rosenbergs were convicted under the 1917 Espionage Act which permits the death penalty without jury recommendation. Lawyers for the doomed man and wife argued they should have been tried under the 1946 Atomic Energy Act. That law requires jury action for imposition of the extreme penalty.

Defense Attorney Emanuel Bloch insisted the Supreme Court was "powerless" to reverse the stay of execution. Brownell obviously thought otherwise.

Under the law, six justices must be present for the extraordinary session asked by Brownell.

AT LEAST SIX justices will be available if the tribunal is convened.

Justice Douglas, who left on motor trip to the northwest shortly after handing down his opinion, decided to return to the capital after learning of the summons by Chief Justice Vinson. Douglas, who had planned to spend the night in Uniontown, Pa., proceeded to Pittsburgh. He will fly back to the capital the morning.

Justices Frankfurter and Minton were not immediately reachable and it could not be determined whether they too would be available for a special session.

However, Chief Justice Vinson, who will make the decision on Brownell's request for special court meeting, will



JUSTICE DOUGLAS
Blocked spies' execution.
(International Photo)

Continued on Page 32

working in his office, as were Justices Jackson, Clark, Burton and Black. Justice Reed was out of town, but his office said he could be available in time for any special meeting of the court.

BLOCH ASSERTED it might take a year or more to thresh out in the courts the issue raised by the 54-year-old Douglas in the ruling he handed down after a soul-searching 24 hours of deliberation.

The chief defense counsel pointed out that Douglas has shunted the Rosenberg case back to the New York Federal District Court in which they were convicted, with the presumption that it would move from there to the Court of Appeals.

Bloch noted the Appellate Court is in recess until Fall, but in New York a court official said the bench could reconvene any time to handle exceptional cases.

FEDERAL JUDGE Irving R. Kaufman, who sentenced the Rosenbergs to die for a crime he called "worse than murder," refused comment on Douglas' action.

The stay of execution granted by Douglas would, unless overturned by a Supreme Court majority, remain in effect while the matter was before the New York courts.

Supreme Court attaches said it appeared certain that no new execution date could be set until the fate of the Rosenbergs, parents of two young sons, had come before the high tribunal for the fifth time.

DOUGLAS' DECISION came less than a day after President Eisenhower, who previously had rejected the Rosenbergs' plea for executive clemency, made it clear he remained firm in his belief the couple should die.

Douglas, a contemplative jurist who spends his vacations climbing mountains, declared in his epochal ruling:

"I have serious doubt whether this death sentence may be imposed for this offense except and unless a jury recommends it. The Rosenbergs should have an opportunity to litigate that issue."

Douglas pointed out that he had power to grant a stay of execution only on grounds not before considered by the full court.

He said that never before in the three-year history of the Rosenberg case have the courts decided whether the convicted atomic spies were properly sentenced under the laws of the land.

Douglas declared he himself was not deciding the issue, but that it should be decided by the full Supreme Court Bench. He rejected the defense motion for a writ of habeas corpus which would have had the effect of releasing the Rosenbergs—at least temporarily—from prison.

IRONICALLY, the issue on which the Rosenbergs won their reprieve was raised before Douglas not by their official counsel, headed by Bloch, but by attorneys Fyke Farmer of Nashville, Tenn., and Daniel G. Marshall of Los Angeles who contended the Rosenbergs were improperly tried under the 1917 spy act.

Douglas commented: "This question is presented to me for the first time on the eve of the execution of the Rosenbergs without the benefit of brief or any extended research. I cannot agree it is a frivolous point or without substance."

This was in direct conflict with Kaufman, who earlier this week denounced Farmer and Marshall as "intruders and interlopers" who had no right to intervene in the case.

Bloch said he will prepare the petition to the New York District Court on the vital point at issue. He expressed doubt that Farmer and Marshall will be permitted to participate in the New York court action.

Let the Justices Rule

THE ATOMIC SPIES, husband and wife, whose crime was called worse than murder by the Federal trial judge, Irving Kaufman, and by President Eisenhower, have won an unprecedented stay of execution from Justice Douglas, acting, as it must seem to the public, as a one-man Supreme Court. No one rejoices in capital punishment. No one cries for blood. But this case, previously carried four times to the Supreme Court, has become a travesty of justice and the integrity of our highest tribunal is jeopardized. Chief Justice Vinson has done the wise thing in reconvening the full court immediately for a decision as petitioned by Attorney General Herbert Brownell. Whatever that decision, let it be made by the court, not by one-ninth of the court.

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Douglas, Calm Amid Furor, Calls Stay a Legal Routine

By James E. Warner

WASHINGTON, June 18.—Associate Justice William O. Douglas flew back today to the special session of the Supreme Court which he precipitated, unperturbed over the furor and a Congressional demand for his impeachment.

Traveling alone by car Mr. Douglas got the word that Chief Justice Vinson had called the court back into session just after he had registered last night at a motel near Uniontown, Pa. He was en route to Yakima, Wash., for a summer's fishing. He caught an early morning plane from Pittsburgh, arriving here at 9:15 a.m.

After his arrival here, Justice Douglas told reporters that his ruling ordering a stay of execution of Julius and Ethel Rosenberg, far from being "unprecedented," as was charged yesterday

by Attorney General Herbert Brownell jr., was a matter of legal routine.

It is perfectly normal, Justice Douglas said, for any Supreme Court Justice to grant such a stay when he is given "substantial new questions which have never been decided." He joked with reporters until they brought up the question of the demand voiced by W. M. (Don) Wheeler, D., Ga., for his impeachment. Then he said "No comment."

Late today, Rep. Chauncey M. Reed, R., Ill., chairman of the House Judiciary Committee, named a subcommittee to give "full consideration" to a resolution calling for the impeachment of Justice Douglas. The measure was introduced yesterday by Rep. Wheeler after the stay had been announced. It charges the Justice with "high crimes and misdemeanors" while in office.

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Herald Tribune—United Press telephoto
Supreme Court Justice William O. Douglas, who granted
a stay of execution to atom spies Julius and Ethel Rosenberg,
arriving in Washington yesterday to attend the
special session of the court.

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1830

His several aids returned to New York later last night, but will go back to Sing Sing sometime today to await the court's decision.

If the high court should reaffirm the death penalty at any time before 9 o'clock tonight, it was expected that the executions would be at 11 P. M. The couple also could be executed on Saturday, before midnight, under the death sentence pronounced by Judge Irving Kaufman.

Customarily, all electrocutions at Sing Sing are on Thursdays, which gives the prison several weekdays to make arrangements—and the condemned an opportunity to make the usual, desperate last-minute court motions before the judges leave for their weekends. However,

there is no legal stipulation requiring executions on Thursdays.

Out of the day's confusion, the Rosenbergs got a break yesterday. Twice—for an hour and a half in the morning and again for the same length of time, in the afternoon—they were allowed to chat because it was their wedding anniversary. A guard and matron stood nearby as they talked through a thick wire-mesh screen.

No Special Last Meal.

All day, they were treated as ordinary condemned prisoners—without the special last-day privileges—because of Justice Douglas' stay. Thus, they received no outside visitors or special last meal.

A lot more confident about what was happening in Washington than anybody else seemed to be, they talked "very calmly" about the special court session then under way, according to prison sources.

"They don't seem to have the feeling that this may be their last day on earth," a guard reported a few hours before the Washington development was announced. "They act as though they don't believe they're going to die. It's something I can't understand."

Even when the day's ordeal ended, and Warden Denno explained to them that they were saved, they scarcely reacted.

"They seemed happy, though they made no comment," the warden said.

The warden spoke first to Julius and then to Ethel Rosenberg because, he said, he thought the first announcement might have been confusing to them. He wanted to make sure that they knew what had taken place.

"They seemed calm," he added.

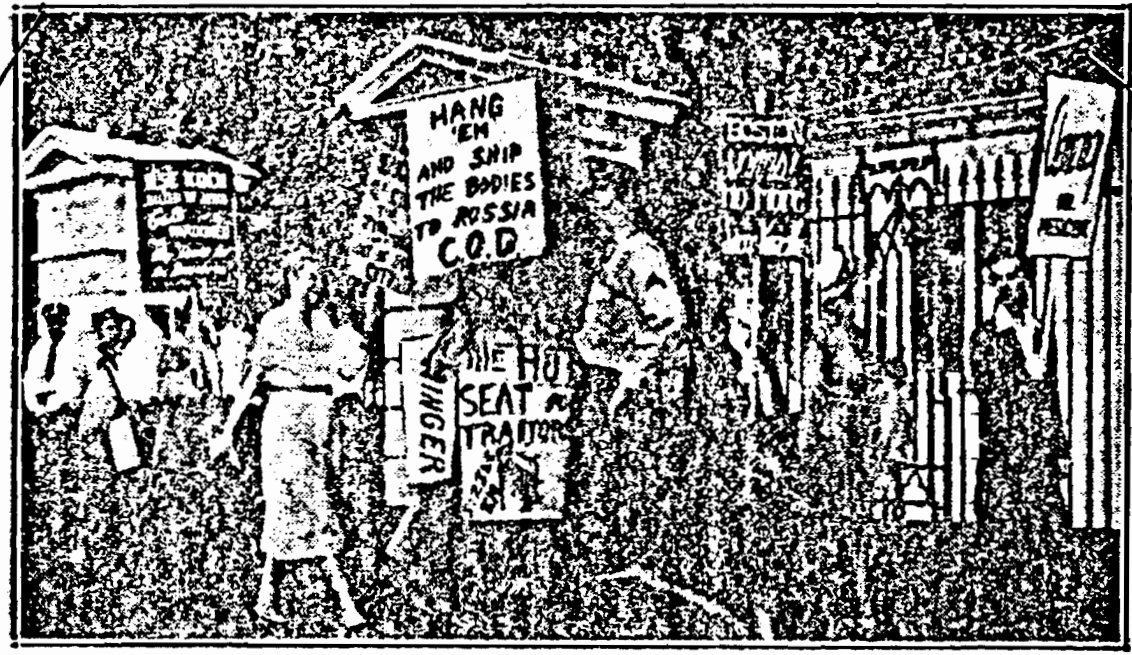
The couple, Denno disclosed, received a number of greetings for their anniversary, but he did not identify any of the senders.

Intermittently throughout the day, Rabbi Irving Koslows, of Mamaroneck, one of the prison's chaplains, visited the couple. When he left at 7:30 P. M., he confirmed the warden's report that they had showed no particular emotion.

All through Ossining, however, there had been mounting tension all afternoon, from the heavily guarded Big House itself to Main St., where knots of people discussed the case—almost unanimously in anti-Rosenberg fashion.

Rosenbergs

Win Another Day



(Associated Press Wirephoto)
Man and woman (center) carrying cards asking death for Rosenbergs are flanked by pro-Rosenberg factions in front of White House where they picketed last night after Supreme Court delayed decision.

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High Court Recesses Till Noon Today

By James Patterson and Frank Holeman

of THE NEWS Bureau

Washington, D. C., June 18.—The Supreme Court tonight recessed until noon tomorrow, postponing final decision on the stay of execution granted atomic spies Julius and Ethel Rosenberg by Justice Douglas.

The action left the stay in effect. It meant that the Rosenbergs had at least one more day to live. They had been scheduled to die in the Sing Sing electric chair at 11 P. M. tonight.

Associate Justice Burton came into the courtroom shortly before 6:30 P. M. and announced simply that the court had recessed until noon tomorrow.

The nine justices had been in conference on the case for almost three hours when Burton made his announcement.

It was still possible that the way might be cleared for an execution this week. U. S. District Judge



Justice Burton
He makes the announcement.

Irving R. Kaufman's original order provided for the death sentences to be carried out "the week of June 15."

If Justice Douglas' indefinite stay is lifted by the full court before the weekend, presumably Kaufman's order can still be carried out.

The high court met in extraordinary special session at noon to hear arguments on Douglas' stay.

For three drama-packed hours, the justices heard the Government plead for ending the stay, and the lawyers for the Rosenbergs demand more time to argue new questions of law. The big new question was whether the Rosenbergs should have been tried under the 1946 Atomic Energy Act instead of the 1917 Espionage Act.

At 3:35 P. M., the oral argu-

ments ended (there had been a half hour lunch recess) and the justices retired to their chambers to talk over the case. At 4:10 P. M., lawyers for both sides were instructed to return to the courtroom, but there was no sign of an end to the judicial tussle as supper time neared.

The pink marble courtroom was packed but amazingly quiet for the special session—third in the history of the Republic. A crowd of about 500 milled around on the steps and lawn outside.

Justice Jackson made it clear that if the Rosenbergs win their point they could possibly get off scot-free. "The probabilities are that if the Atomic Energy Act covers this, the whole case is out," he declared gravely.

Government lawyers agreed that they probably could not make a case against the Rosenbergs stand up under the atomic energy law.

Chief Justice Vinson called the

(Continued on page 6, col. 1)

special session last night, only two hours after Attorney General Herbert Brownell Jr. filed a petition for the court to consider Douglas' "unprecedented action."

"The term convened with consent of all associate justices except Mr. Justice Black, who objects," noted Vinson. Black, sitting on Vinson's right, said nothing but some of his questions later implied he felt the court was acting with "unseemly haste."

Acting Solicitor General Robert L. Stern, carrying the ball for Brownell, was the first speaker.

"Julius Rosenberg was trying to recruit scientists in a position to get useful information, but not just atomic information," Stern declared. He insisted that the Espionage Act of 1917 applies to the case—not the Atomic Energy Act of 1946.

New Defense Claim.

Douglas had granted his stay because of the new defense claim that the Atomic Energy Act superseded the Espionage Act. The atomic law provides for the death penalty only when the jury recommends it. The Rosenberg jury made no such recommendation.

"If the Government had tried to make this case under the Atomic Energy Act, this case would have been thrown out of court so fast the Government would have been a laughing stock," Stern asserted.

"The acts relating to atomic energy took place before the Atomic Energy Act was passed," he explained. "Those alleged after the act was passed had nothing to do with atomic energy."

The Rosenbergs were convicted in 1951 of conspiracy to pass atomic secrets to Russia from 1944 to 1950. The alleged "overt acts" were committed in 1944 and 1945. The Atomic Energy Act became effective Aug. 1, 1946.

After a lively discussion of the technicalities of the two laws, involving Justices Frankfurter, Reed and Vinson, Justice Jackson said bluntly:

"The probabilities are that if the Atomic Energy Act covers this, the whole case is out."

Black pressed Stern closely about the death penalty given the Rosenbergs by Federal Judge Irving Kaufman.

"If there is any doubt as to the death penalty, which way should it be decided?" Black demanded.

Stern hemmed and hawed a little, then conceded that such a doubt should be resolved "against the Government"—in favor of the Rosenbergs.

Only 12 Hours to Prepare.

Under more questioning by Black, Stern admitted that he had only about 12 hours to prepare his argument against the applicability of the Atomic Energy Act.

"And you still say there has been no unseemly haste?" Black snapped. Stern stuck to his guns, citing the long review of the case by the lower courts and the fact that the Supreme Court itself turned down Rosenberg appeals four times.

Stern was followed by Daniel Marshall of Los Angeles, one of the

two outside lawyers who dug up the Atomic Energy Act angle and won the stay from Douglas.

Marshall complained that he had not had time enough to prepare to discuss present "critical and crucial questions of great complexity."

"You mean you made your application without study or preparation?" asked Jackson with a grin.

Marshall's associate in the case, Fyke Farmer of Nashville, Tenn., jumped up at this point and exclaimed: "I'm not contending we're not ready, Your Honor. I'm anxious to get up to the bar and plead."

Jackson quizzed the pair about their unusual role in the case. "Who do you represent? How do you get into the act?" he demanded.

"Irwin Edelman of Los Angeles," replied Marshall. After more sparring with Jackson, Marshall added, "We are acting on the theory that no matter where the petitioner comes from, if he can show one point to save people from dying unjustly, this court will listen."

The Rosenbergs' own chief counsel, Emmanuel Bloch of New York, followed Marshall. He said he and his associate, John Finerty, needed more time to study the new points of law raised by Marshall and Farmer.

Admits His Error.

"We must tell you in all candor that we are unprepared to argue these questions," Bloch declared.

He admitted that he hadn't paid much attention to the atomic energy law when Farmer first pointed it out to him two months ago. "I'm a lawyer; I'm fallible," he grinned.

At this point, Justice Jackson went out of his way to compliment Bloch on his tenacious defense of the Rosenbergs and his handling of the case to date. "I think you've done a fine professional job," said Jackson.

Finerty closed with a ringing speech defending the innocence of the Rosenbergs and lambasting Attorney General Brownell for calling Douglas' stay an "unprecedented action" and demanding the special term today.

"There never was a more crooked district attorney in New York than the one who tried the Rosenbergs," he declared vehemently without mentioning names. He charged the prosecutor "suppressed evidence" and used "perjured testimony."

Hitting at Brownell, Finerty said the Attorney General's demand for a special session was a slap at the "integrity of Justice Douglas," and "at the integrity of the court itself."

"You can't close your eyes to the fact that there was a resolution introduced in the House to impeach Justice Douglas," he said loudly.

Several justices tried to calm down Finerty and get him on another line of thought.

"I don't apologize for anything I've said before this court," Finerty said stoutly at one point.

Farmer spent seven minutes discussing the Atomic Energy Act, which he claimed made the Rosenberg death penalty "unauthorized." Vinson gave him 10 extra minutes, as the justices showed close interest in the points he was making.

(Other pics. p. 1 and centerfold)



A Matter Of Life.. And Death

Three women, carrying placards pleading for clemency for the condemned atom spies, Julia and Ethel Rosenberg, fast past flag-draped casket of an American soldier, side of platform in Pennsylvania Station. M/S Raymond Lyons, Providence, R. - I., signed as escort for the body, watches the proceedings grimly. More than 1,900 organizers and supporters of the Rosenbergs boarded a special 16-car train for Washington to stage a demonstration hoping to achieve clemency for the convicted atom spies. Late yesterday afternoon, the Supreme Court postponed its decision on Rosenberg's stay of execution, thus saving them from death in Sing Sing's electric chair last night.

—Story on page 3; other pictures in centerfold

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Full Bench Recesses

to Noon;

Debates Douglas

Stay 2½ Hrs.

By WILLIAM KERWIN
WASHINGTON, June 19 (INS).

The Supreme Court last night called a recess until 12 noon today, postponing its decision on the fate of atomic spies Julius and Ethel Rosenberg. The stay of execution granted by Associate Justice Douglas thus remains in effect until the court reaches a decision.

The New York man and wife who had been scheduled to die at 11 o'clock last night were assured of at least a brief new lease on life when Associate Justice Burton announced the court would recess.

The recess came after the nine justices had deliberated in secret for some two and one-half hours on the government's demand that Douglas'

Continued on Page 3

stay be overturned and the way be cleared for the execution at Sing Sing prison.

The full court earlier had heard three hours and twenty minutes of bitter argument over whether the Rosenbergs should not have been tried under the Atomic Energy Act.

Burton's terse announcement left the possibility the high court already had reached a decision and wanted the extra time for members to write opinions. It also was possible the justices might convene today and then recess for further deliberations.

STAYED SPIES' DEATH



Justice Douglas smiles as he is asked for his views on the Rosenberg case as he arrives in Washington. (AP WIREphoto)

If the court overrides Douglas today, the Rosenbergs can be executed tonight or Saturday night.

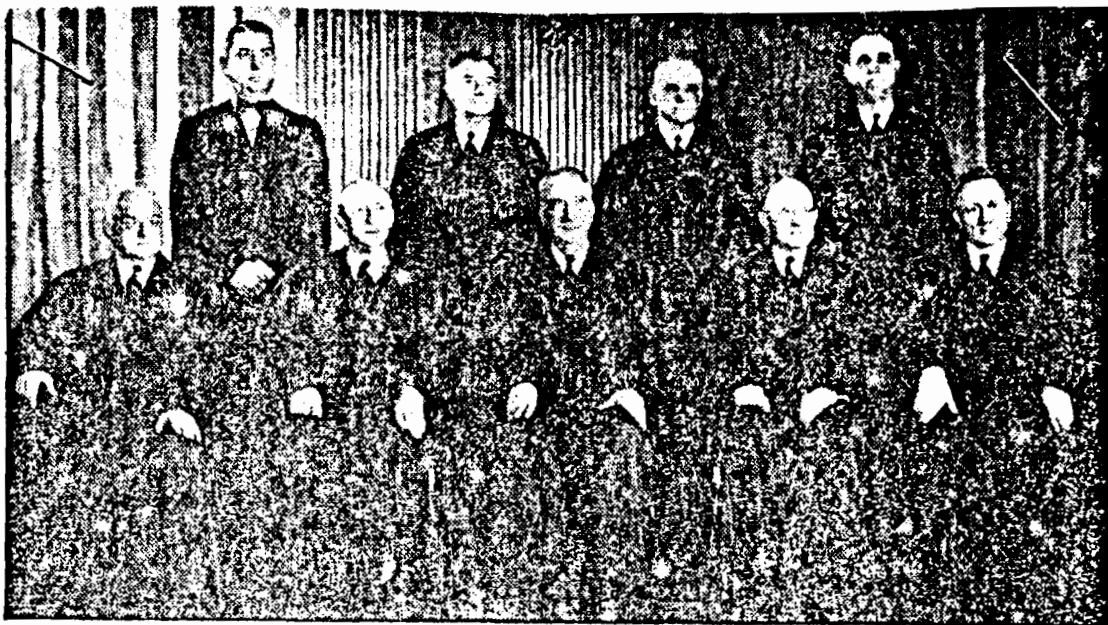
Should the court go along with Douglas, the executions will be postponed while Federal courts in New York decide whether the death sentence was properly imposed following the conviction of the New York couple on charges of wartime passing of U. S. atomic secrets to the Russians.

Attorney General Brownell was in the Justice Department press room when the court recess was announced, and he received an immediate phone call from President Eisenhower.

Burton's announcement of the recess, made at 6:28 p.m. (EDT), brought a gasp of astonishment from the crowded courtroom.

The Ohioan, only one of the Justices to return to the bench from the deliberation chamber, said tersely: "The court will be in recess until 12 o'clock tomorrow."

DEFENSE ATTORNEYS made



Here are the nine justices who comprise the country's highest court (l. to r., seated): Felix Frankfurter, Hugo Black, Chief Justice Vinson, Stanley Reed and William O. Douglas and (l. to r., standing): Tom Clark, Robert Jackson, Harold Burton and Sherman Minton. Court reconvenes at noon today to review stay of execution granted the Rosenbergs. (International Photo)

no immediate comment. All four lawyers who argued in behalf of the Rosenbergs left the courtroom at once.

Acting Solicitor General Robert A. Stern, who argued the Government's case against the stay which Douglas issued 36 hours before the execution hour, likewise declined comment.

It was obvious the justices were involved in profound argument on the issue involved—the validity of the death sentence imposed on the Rosenbergs for

betraying U.S. atomic secrets to Russia.

Nearly two hours after they began deliberating, the jurists called for additional law reference books which were taken to their chambers.

A court spokesman said the court's extraordinary day—five hours and 46 minutes—was the longest in his memory.

Preparations had been completed at Sing Sing to put the Rosenbergs to death at 11 o'clock if Douglas was overridden.

The condemned man and woman—who, ironically, were

observing their 14th wedding anniversary—kept in touch with the fateful developments by radio.

The point on which the Douglas stay was issued—whether the Rosenbergs had been tried under the proper law—was raised only 48 hours before the execution date.

THE GOVERNMENT maintained the question was not "substantial." The Rosenberg lawyers insisted it was of crucial importance and must be threshed out

Continued on Page 28.

from the Federal District Court all the way to the Supreme Court before the defendants' fate could be determined.

The insistent and pointed questions addressed by the jurists to the attorneys indicated the minds of the court members were open on the issue on which the Rosenbergs' fate hinged.

AS THE COURT deliberated, defense counsel Emanuel Bloch announced that if the ruling is against the Rosenbergs, he will move immediately for a new stay of execution to allow President Eisenhower to consider the executive clemency plea which already has been filed.

Eisenhower indicated strongly earlier this week that he would reject the plea.

Acting Solicitor General Stern argued for the government that the Douglas stay be vacated because it was not based on a "substantial question" of law.

ATTORNEYS FOR the Rosenbergs countered with the contention that under the law the justices must uphold Douglas' action and return the spy case to the lower courts to begin determination of the issue which won the doomed pair at least a temporary reprieve.

Stern attacked Douglas' reasoning that there was "serious doubt" that the Rosenbergs, who were convicted under the Espionage Act of 1917, should not have been tried under the Atomic Energy Act of 1946.

The 1917 act permits imposition of the death penalty without a jury's recommendation. The 1946 law requires such a recommendation. There was no such recommendation from the jurors who found the Rosenbergs guilty of a crime the trial judge called "worse than murder."

STERN, concluding his argument, told the court:

"We do not believe that the point now under discussion 26 months after the defendants were convicted and after the case was reviewed countless times by the courts, has substantiality. If it were substantial, it would have been raised before this time."

Meanwhile, a new motion to free the Rosenbergs was filed in the U. S. District Court in New York. Counsel for the condemned couple contended that Federal Judge Irving R. Kaufman lacked the authority to sentence the Rosenbergs, citing Justice Douglas' ruling yesterday.

The Supreme Court building itself and the area adjacent to it were jammed. Hundreds of Rosenberg sympathizers milled in the vicinity.

"Save the Rosenbergs" pickets moved from the Supreme Court building to the White House area late in the day, and swarmed past the executive mansion within minutes after the Court recess was announced.

The government did not press for electrocution at the prescribed hour. Stern told the court:

"The government is not asking the court to use undue haste."

Throughout three hours and 20 minutes of argument, equally divided among government and defense lawyers, all nine justices hammered sharp questions at the attorneys on the complex legal issue involved.

Noting this, Bloch declared that it "shows that certainly many members of the court appear to be deeply troubled by this question of a stay of execution."

The high tribunal, called back from its Summer recess by Chief Justice Vinson at the request of Attorney General Brownell, decreed three hours of argument on the attempt to upset Douglas' ruling—90 minutes for each side.

ALL NINE justices were pres-

ent All participated in sharp questioning of the opposing lawyers. Douglas, who emphatically refused to disqualify himself, addressed a series of searching queries to Stern.

Chief Justice Vinson announced that Justice Black was the only member of the high bench who objected to the extraordinary session. Black was the only justice to vote Tuesday in favor of a writ of habeas corpus.

The court atmosphere was charged with high drama. Justices and attorneys alike spoke in hushed tones, until a highly emotional outburst came from attorney Daniel G. Marshall of Los Angeles.

Marshall, representing Irwin Edelman of Los Angeles who intervened in the case over the opposition of the "official" Rosenberg defense counsel, argued bitterly against Vinson's decision to call the special session.

* * *

SLAMMING HIS hand against a rostrum to emphasize his points, Marshall insisted that the fate of the Rosenbergs should be decided in "an orderly manner."

It was Marshall and his associate, Fyke Farmer of Nashville, Tenn., who won the stay granted by Douglas on a point not previously brought into the case by the regular defense counsel headed by New York attorney Emanuel Bloch.

Vinson and Justice Jackson interrogated Marshall about the timing of their motion for a stay. Jackson asked: "When did you get into the act?"

During the exchange, a roar of laughter exploded in the courtroom when Marshall was questioned about his representation of Edelman in a vagrancy case. The word "vagrancy" touched off the guffaws, and Marshall cried: "I think this is shocking in a capital case."

Marshall argued for the Edelman faction for 15 minutes, and Bloch then took over, telling the court that the only attorneys of record in the case were himself and his associate, John Finerty.

Saypol 'Stands On Verdict Of The Jury'

STATE SUPREME Court Justice Saypol, who prosecuted Julius and Ethel Rosenberg when he was U.S. Attorney and who was called "a crooked District Attorney" by one of the Rosenberg defense lawyers yesterday, declared last night he would "stand by the verdict of the jury."

John F. Finerty, the lawyer who attacked Saypol, had charged before the Supreme Court that the couple was convicted on "deliberately perjured testimony."

Saypol would not comment directly on Finerty's remarks, but said:

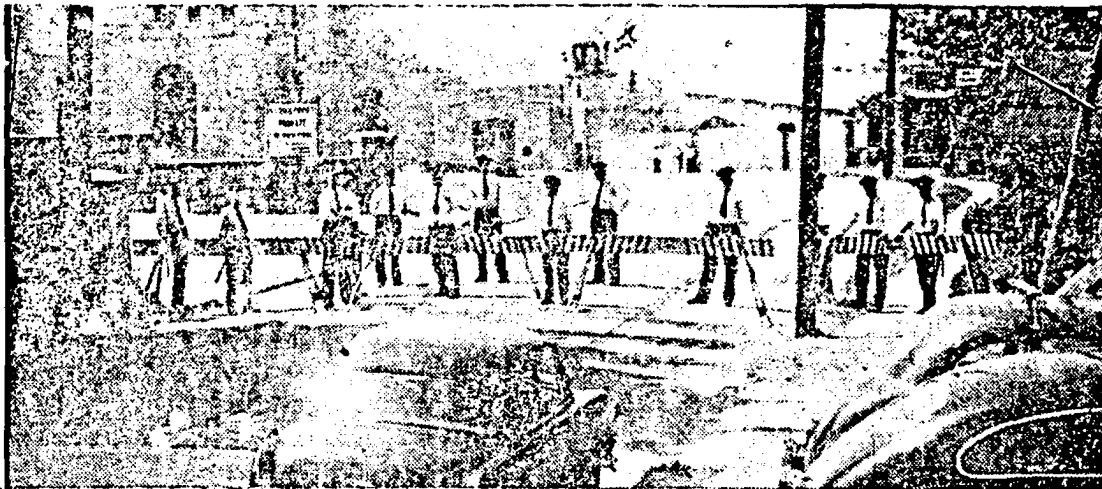
"The matter is now in the courts."

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Warden Waits Word

on Rosenbergs' Fate



While the Supreme Court weighed 11th hour decision on the Rosenbergs' fate, police stood guard behind barricade on road leading to Sing Sing's North Gate. (Mirror Photo)

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By **JEROME EDELBERG** and **RICHARD WILSON**

In Sing Sing's Death Row, prisoners waiting to walk that last mile to the oaken chair behind the green door heard over the centrally-tuned prison radio yesterday that Julius and Ethel Rosenberg once again had won a postponement of their date with death.

The atom spies, whose 14th wedding anniversary passed unmarked, "appeared overjoyed," a guard said.

But their reprieve may not last longer than 24 hours.

No official notice of the Supreme Court decision to delay further debate until noon today will be given the two, as they already had been notified of the stay granted by Justice Douglas, and that stay will remain effective unless vacated by the full court.

U.S. Marshal William A. Car-

roll, in charge of the execution, said that if the Court vacates the stay today, there is a "possibility" the Rosenbergs will die tonight. Final decision on the execution date, if the Court rules against Douglas' order, will be made by Carroll, Sing Sing Warden Wilfred Denno and a Justice Dept. representative after the nine justices' decision is announced. * * *

THE ROSENBERGS had just finished their prison dinner when news of the delay was flashed over the radio, a little more than four hours before they had been scheduled to walk the last mile. After their first exuberant release of pentup emotions, they re-donned their stolid fronts and had almost nothing to say to guards or to the 13 other prisoners in Death Row.

Warden Denno said that if the Supreme Court vacates Douglas' stay, he, Carroll and the Justice Department representative probably will set the execution time for tonight. The pair may be executed up to midnight Saturday without a new Federal Court order, as Judge Irving R. Kaufman's sentence specified only that the executions were to be carried out in the week of June 14.

Asked if the execution would take place even if it were the Jewish Sabbath, which begins at dusk tonight, Warden Denno said:

* * *

"AS FAR AS I'm concerned, that has nothing to do with it."

Denno said he needed little notice to put the machinery of execution into action—perhaps

Continued on Page 28

two hours, and in a pinch, less than that. Joseph P. France, the Cairo, N. Y., electrician who acts as executioner, has been told to stand by.

It was a sad wedding anniversary for the Rosenbergs, who spent yesterday awaiting the word which would galvanize the prison's death crew—the barber, the executioner, the guards—into action.

Outside, in the prison exercise yard, there was the crack of a baseball bat and excited shouts as the prison team worked out. But in Death Row, where 14 persons paced six strides up, one across and six back in their cells, there were no shouts and no laughter.

THE DOOMED atom-spies spent three hours together during the day. Together isn't the right word. They spent 90 minutes peering at each other through double-thick wire mesh. They talked quietly and once they touched fingertips through the wire separating them.

They spent another hour and a half talking during the afternoon. There were no tears, no hysterical farewells, no signs of nervousness. If they knew that Warden Denno had ordered state executioner Joseph P. France to stand by, they made no sign.

They acted like a man and woman who know they cannot die—much like a soldier on the battlefield who feels the bullet isn't made that can hit him.

In place of the usually lavish "last meal," the couple got meat, tomato sauce, mashed potatoes, oleo, apple butter, bread and iced tea. That was all, and that was all they wanted.

OUTSIDE, THE forbidding prison took on the atmosphere of an armed fortress. Unsmiling guards, armed with clubs, patrolled the lone street leading into the north end of the prison. A barricade was erected 300 yards from the entrance.

Warden Denno had said, "There will be no marches on this prison and local authorities are prepared to make sure no such attempt is made." If needed, he said, he could call on state police for additional help.

The couple received Rabbi Irving Koslowe separately in their cells. The chaplain spent about half an hour with Ethel—a little less with Julius. No friends came during the day. No relatives. Most of these were still busily fighting for the Rosenbergs' lives.

Julius' mother, Mrs. Sophie Rosenberg, had gone to Washington in the hope she could see President Eisenhower and induce him to exercise executive clemency—a plea that had been turned down on a previous occasion. She continued to protest the innocence of her son and daughter-in-law.

Nervously, she said, "My son said the papers print lies and he can't get justice. What chance have I got of getting mercy? I am going to plead for the lives of my two children. My heart is heavy."

EARLIER, ABOUT 1,500 persons boarded a special clemency train at Penn Station to go to Washington and demonstrate on behalf of the condemned spies. During the afternoon, a second train with more than 500 left on the same mission.

At Sing Sing, U.S. Marshal William A. Carroll and his deputy, Tom Farley, conferred with Warden Denno. They said they would stay at the prison pending word from Washington.

EVEN IF THE high court should vacate the Douglas order, there still remained the slim possibility that the Rosenbergs

could save their lives by "singing" about atomic espionage. So far, however, they have remained steadfast in pleading their innocence despite Government indications they could win clemency by talking.

It was understood a telephone line would be kept open between Ossining and Washington to facilitate a last-minute

Presidential reprieve if the couple decides to tell what they know about atom spies and the espionage network.

Meanwhile, executioner Francis J. B. ... gave the electric chair a final test.

Rosenberg Ruling

Put Off, Stay Still On

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Court Meets Again on Spies Today

By Bert Andrews

WASHINGTON, June 18.—The Supreme Court postponed decision tonight in the case of Julius and Ethel Rosenberg and recessed until noon tomorrow.

The court's decision was announced at 6:29 p. m., 4 hours 31 minutes before the atom spies would have started their walk to Sing Sing Prison's electric chair, if the court had overruled the surprise stay of execution granted yesterday by Associate Justice William O. Douglas.

Associate Justice Harold H. Burton revealed the decision of the full court of nine members to postpone until noon tomorrow a hearing on whether to vacate or let stand the stay granted by Justice Douglas.

Could Set New Hour

If the court throws out the stay tomorrow Sing Sing's warden can set any hour, before midnight Saturday, for the execution of Rosenberg, thirty-five, and his wife, thirty-seven.

This is possible under the sentence imposed by Judge Irving R. Kaufman, of the United States District Court, of New York, who ruled that the Rosenbergs should die during this week.

Under that ruling no new District Court order would be required as to this week.

If the Supreme Court extends the new stay granted by Justice Douglas or issues a new one by a majority of the court, there will have to be legal arguments and, after them, if the conviction is finally upheld, a new execution date will have to be set.

Justices Hear Debate

Chief Justice Fred M. Vinson and the eight associate justices had conferred from 3:32 to 6:28 before giving Justice Burton the duty of making the announcement. Previously they had heard 2 hours 40 minutes of argument by government and defense counsel on the question of whether the stay should be vacated or upheld.

At 6:29, Justice Burton, in his judicial robes, walked through the velvet curtains to the rear of the bench to face lawyers, reporters and spectators who were awaiting the ruling.

He took his usual seat, next to the last on the right hand side—as the audience faces the bench—of the bench. He rapped his gavel lightly.

"The court will stand in recess."

Continued on page 10, column 1

until tomorrow at 12 noon," he said.

After he had announced the decision, which was not his personally but that of the whole court, or at least a majority of it, Justice Burton turned, walked through the opening in the red velvet curtains at the rear and closed them behind him.

This proceeding took only about twenty seconds.

There was no announcement as to whether there was a vote on the matter or whether the justices were united or divided. Nor was there any indication as to why Chief Justice Vinson did not make the announcement.

Attorney General Herbert Brownell jr., who had asked the court to toss out the stay granted by Justice Douglas, was in his office beside a news ticker when the word of Justice Burton's announcement came.

Call From Eisenhower

As Mr. Brownell was finishing reading it, a Justice Department secretary came in from an adjoining room and said President Eisenhower wanted him on the telephone. There was no announcement as to what was said.

A few minutes later, J. Edgar Hoover, director of the Federal Bureau of Investigation, came into Mr. Brownell's office. Nothing was announced about their talk, either.

Earlier, there had been a report that President Eisenhower would issue a statement, no matter what the court's decision was.

However, in view of the court's decision to postpone action until tomorrow, it seemed certain that the White House would not comment before then. In fact, the White House put on a news "lid" a short time after Justice Burton's announcement.

The brief "Burton-climax" to a case which has attracted more international attention than any American case since that of Sacco-Vanzetti in 1926 and 1927 ended a busy day in which a lot of talking was done about the merits of the stay, and a lot of things happened.

One lawyer for the government and four acting for intervenors in behalf of the Rosenbergs talked before the court

from 12:12 to 2 p. m. and from 3:30 p. m. to 3:32 p. m.

All nine justices participated in the questioning.

On the bench, from left to right as the audience faced it, were Associate Justices Tom C. Clark, Robert H. Jackson, Felix Frankfurter and Hugo L. Black, Chief Justice Vinson, and Associate Justices Stanley F. Reed, Douglas, Burton and Sherman Minton.

The questioning centered on these points:

Were the Rosenbergs properly convicted and sentenced to death under the 1917 espionage act for passing atomic secrets to Russia?

Or should they have been tried under the atomic energy act of 1946, which provides that the death penalty can be imposed only when intent to harm the United States is shown and when a jury specifically recommends that penalty?

As the court debated the issues, these other developments came:

Mrs. Sophie Rosenberg, mother of the thirty-five-year-old Rosenberg, flew to Washington from New York. One report was she wanted to plead personally with President Eisenhower to spare her son and his wife, who is thirty-seven. However, James C. Hagerty, White House press secretary, said no request had been received from her for an audience.

Today's unusual court hearing stemmed from the surprise stay granted yesterday by Justice Douglas on the grounds that there was a legal question as to whether the Rosenbergs should have been tried under the espionage act or the atomic energy act.

Television, newsreel and radio equipment was set up outside the Supreme Court for pictures and interviews of counsel in the case and notables who had kept the court clerk busy with pleas for admission.

It was 12:12 p. m. when the nine justices took their seats in the crowded courtroom to hear the pro and con arguments.

One of the uniformed guards was heard to express worry that the justices were "so late." "Usually," he said, "they're right on the button."

An attache not in uniform had expressed the same fretfulness in a different way at 12:01.

He walked up and down the center aisle and, in a whisper, told some of the men in the

spectators' seats to button their coats. Supreme Court decorum requires that, particularly of lawyers, and, in fact, attorneys appearing before the court usually wear vests and buttoned coats unless they're wearing double-breasted suits which won't give away their lack of a vest.

Robert L. Stern, Acting Solicitor General, who, with Mr. Brownell, had signed the government's petition to throw out Justice Douglas' stay, was the first lawyer to be heard.

Mr. Stern began by saying he did not question the authority of Justice Douglas to issue the stay. Justice Black picked him up on that and asked Mr. Stern if his contention was that the whole court could set aside a stay issued by a single justice.

"What one justice can do, this court can undo," Mr. Stern replied.

Chief Justice Vinson observed that Justice Douglas acted within his rights, and that there is a statute giving an individual justice the power to issue a stay whether the court was in session or not.

This related to the point that the court had formally recessed for the summer last Monday and Justice Douglas issued the stay only yesterday morning.

The attitude of all the eight other justices did not indicate they had any hard feelings toward Justice Douglas for making them get back to court duties when they were preparing for vacations.

Justice Douglas, for his part, remarked that he had never assumed that the whole court lacked the power to overrule the order of an individual justice.

As one justice after another participated in the questioning until eventually all of them had asked questions of one or all of the various lawyers, Mr. Stern made this point:

The overt acts committed by the Rosenbergs took place in 1944 and 1945, or before the atomic energy act of 1946 was enacted, and therefore it was proper that they be tried, as they were, under the espionage act of 1917.

When Justice Douglas pointed out that most of the case against the Rosenbergs rested on atomic matters—"I think atomic energy dominated this case from beginning to end," he said—Mr. Stern did not completely disagree.

But when Justice Douglas suggested the case might have come under the atomic energy act because there was a conspiracy among the Rosenbergs and others that continued after the act became law, Mr. Stern took issue with him.

Referring to the time the overt acts took place, Mr. Stern said:

"Why, if the government had tried to support this case under an act passed in 1946 the result would have been such that the Justice Department would have

been the laughing stock of the legal profession. It would have been laughed out of court."

There was much discussion about the two laws. The espionage law provides the death penalty only for espionage committed in wartime, provided a spy is shown to have acted with the intent to injure the United States or give advantage to a foreign power. A jury could recommend mercy, but a judge need not be guided by the recommendation. The Rosenberg jury made no recommendation. It just found the Rosenbergs guilty as charged.

The atomic energy act authorizes the death penalty only if there is intent to injure the United States and then only if the jury recommends it.

Justice Jackson put in a word:

"If the atomic energy act governs and the offenses were outside the provisions of the act, you would have doubt whether there would be any case at all, wouldn't you? I'm wondering whether a re-trial under the atomic energy act and not merely re-sentencing under the espionage act might not be involved."

Mr. Stern said his opinion was that if the atomic act was held to apply, the death sentence would have to be vacated and that a new trial under the act might be necessary, provided an indictment could be obtained under it.

Counsel appearing for or intervening in behalf of the Rosenbergs were next.

Daniel G. Marshall, of Los Angeles, who had been called an "intruder and interloper" when he tried to get into the case before Federal Judge Irving R. Kaufman, in New York, but who was one of two attorneys whose plea won the stay from Justice Douglas, was first.

He said the court would be acting with "unseemly haste" if it ruled swiftly on the issues revolving around the stay.

At one point Justice Jackson asked Mr. Marshall, "How did you get into the act?"

Mr. Marshall explained that he represented Irwin Edelman, of Los Angeles, a former New York book-shop owner, who had appeared as "next friend" for the Rosenbergs in court proceedings and had been expelled by the Committee to Secure Justice in the Rosenberg Case after he had prepared a pamphlet criticizing the Rosenbergs' attorneys.

Justice Jackson's remark about, "How did you get into the act?" and a smile that accompanied it, made Mr. Marshall see red. He shook a finger at Justice Jackson—something that rarely happens to a Supreme Court justice while court is in session—and said:

"It's a shocking example of bad taste when this is made a subject of jokes."

Chief Justice Vinson leaned

forward and spoke to Mr. Marshall, telling him, in effect, to calm down; that no reply was intended. Mr. Marshall calmed down.

Emanuel H. Bloch, chief counsel for the Rosenbergs, stood before the court next. He said he and his associate John H. Finerty bore the "sole responsibility" in the case and did not join with Mr. Marshall or the Farmer, of Nashville, Tenn., who joined in the Marshall plea to Justice Douglas.

Mr. Bloch, too, pleaded for a delay to give the court more time to consider the matter.

He said he now agreed with the points raised by Messrs. Marshall and Farmer.

Asked why he hadn't raised the points before, he said he had received advice from thirty-five lawyers over the country, and from Mr. Edelman.

"I've got a one-man office and I've been ostracized over this," he said. "I'm just a lawyer. I'm fallible and perhaps I didn't see the validity of the points before."

He said he hadn't had time to study the new issues raised and that he was "not prepared to enlighten the court on them."

"It would take a month's time to do solid research work," he said. "It's very easy to represent clients with a popular cause. I'm sorry there are not more lawyers willing to represent clients with unpopular causes. I think the government's action in asking to have the stay vacated is not only unseemly but shocking."

Mr. Bloch maintained throughout that the Rosenbergs were accused of two acts of conspiracy on atomic espionage which took place after the law was enacted.

As Mr. Bloch concluded, Justice Jackson leaned forward and told him:

"I want to say that these people were fortunate to have a counsel of your courage and persistence. You have behaved as a lawyer should throughout the case. I'm all for you."

Mr. Finerty was up next and promptly ran into trouble by denouncing Attorney General Brownell and the Federal Attorney who prosecuted the case in New York.

Justice Reed spoke up: "Speaking for myself, I think it is improper to talk about things not before the court."

Justice Clark said: "I suggest you talk about the facts. This is a point of law."

"I'm not in a position to talk about the Atomic Energy Act," Mr. Finerty said. "I do speak for clients who are likely to die at 11 tonight."

Justice Minton said: "So you take up the time of the court abusing the Attorney General."

Justice Frankfurter said: "You have no business to assume that we have already made our decision."

Mr. Farmer was last for the defense. He said the indictment of the Rosenbergs was invalid in that they should have been tried under the Atomic Energy Act, and that the death penalty was inconsistent with the conflicting penalty provisions of the two acts.

Mr. Stern ended the lawyers' talk by rebuttal in which he re-emphasized that all the overt acts committed by the Rosenbergs took place before the Atomic Energy Act became law as of Aug. 1, 1946.

Then, at 3:32 p.m., the court left the bench and retired to discuss what action to take.

COURT HEARS SPY DEBATE; RULES TODAY

CASE SEEN IN PERIL

Rosenbergs May Fight
Indictment if Death
Sentence Is Upset

By LUTHER A. HUSTON

Special to THE NEW YORK TIMES.

WASHINGTON, June 18 — The Supreme Court is expected to announce at noon tomorrow its decision as to whether it will set aside the stay of execution granted to Julius and Ethel Rosenberg, the atom spies, by Justice William O. Douglas.

Until that decision is made known the stay remains in effect. In consequence, the Rosenbergs escaped death in Sing Sing prison tonight for conspiracy to betray the secrets of the atomic bomb to Soviet Russia. The execution of their death sentences had been set for 11 P. M.

The high court heard three hours of arguments today on the question of whether the Atomic Energy Act of 1946 was applicable to the Rosenberg case. Then it considered the matter for three hours in its conference room.

At 6:29 P. M., Associate Justice Harold H. Burton ascended the bench alone and said:

"The court will stand in recess until tomorrow at 12 noon."

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Special Term Convened

The court met at noon in a special term convened by Chief Justice Fred M. Vinson on application of Attorney General Herbert Brownell Jr., who had asked the court to invalidate the stay granted by Justice Douglas.

Although it had been expected that some of the justices would not be able to be present, inasmuch as they had left Washington when the court recessed on Monday for the summer, all nine were on the bench. Justice Douglas, who had started for the West by motor car, turned back at Uniontown, Pa.

The question the court was convened to decide was whether the provisions of the Atomic Energy Act applied to the Rosenbergs' case, rather than the General Espionage Act under which they had been convicted and sentenced. Justice Douglas found a legal doubt that the sentences had been imposed under the proper statute and ordered a stay of execution, until the point was decided by the courts.

If the Atomic Energy Act applied, the death sentences imposed by Federal Judge Irving R. Kaufman would be illegal. Under that act the death sentence, or life imprisonment, may not be imposed in espionage cases except on recommendation of the jury. The jury that convicted the Rosenbergs made no such recommendation.

Whole Case in Doubt

Soon after the arguments began the question was raised as to the effect a decision holding the atomic act applicable would have upon the Government's case.

While Robert L. Stern, acting Solicitor General, was arguing that the act did not apply, Justice Robert H. Jackson remarked:

"The probabilities are that if the Atomic Energy Act covers this case, the whole case is out."

The apparent point was that if the sentences passed under the

Continued on Page 8, Column 4

General Espionage Act could be attacked successfully, so could the indictment returned under the same law.

Although the validity of the indictment is now now at issue in the courts, Emanuel H. Bloch, chief counsel for the Rosenbergs, was quick to seize upon the idea suggested by Justice Jackson. When his turn came to argue he indicated that, if the sentences imposed by Judge Kaufman were found illegal, he probably would challenge the indictment as well.

Mr. Stern made it plain that the Government did not think it could win a case on an indictment brought under the Atomic Energy Act.

"The assumption of the defense is that the case [against the Rosenbergs] could have been brought under the Atomic Energy Act," he said. "If it had been, the case would have been thrown out so quickly that the Government would have been a laughing stock."

Justice Felix Frankfurter had raised the point of the effect of the court's eventual decision upon the case as it now stood. He wanted to know whether, if the high court held the Atomic Energy Act applicable, the case would go back to Judge Kaufman for resentencing. He asked Mr. Stern if a death sentence could be imposed under the Atomic Act without a recommendation of the jury.

When Mr. Stern replied that it could not, Justice Frankfurter remarked that reconstitution of the jury would be essential. He appeared to question whether the jury that tried the Rosenbergs could be reconvened.

Justice Jackson commented that if the Atomic Act covered the case, the trial under the Espionage Act had been so broad in scope that the whole character of the case would be changed if it were tried under the newer law.

Division Is Indicated

The tenor of the questions asked from the bench during the arguments, and the length of time the justices spent in their conference chamber before recessing until tomorrow were taken as indications of a divided court. Some observers felt that much of the time spent in the conference room might have been devoted to attempting to persuade doubtful justices to join one side or the other.

The secrecy of the conference room is inviolate, however, and no inkling came of the nature of the decision the court is expected to announce at noon.

The nine justices were unusually solemn as they ascended the bench. An air of sternness often absent on days when issues less momentous are to be decided was noticeable.

The Chief Justice announced as the court convened that Justice Hugo L. Black was the only member who had opposed the special term.

The justices faced a packed courtroom. Several hundred persons waited in long queues outside the chamber doors, hoping for a chance to get in. Outside on the plaza, other crowds lingered.

Court attachés were watchful to assure the maintenance of decorum. One deputy marshal warned lawyers inside the rail that closes off the space reserved for attorneys to be sure their coats were buttoned when the justices came in.

Mr. Stern hardly had begun his arguments for the Government, however, when the justices started peppering him with questions. When he said that the Atomic Act did not apply, Justice Black asked if Judge Kaufman had given the transmission of atomic information to Russia as grounds for imposing the death penalty. Mr. Stern replied that that was one ground.

Justice Black also raised the question of the jurisdiction of the Supreme Court to vacate the stay granted by Justice Douglas. Mr. Stern said he thought there was no question of the court's power to set aside an act of one of its members.

Later, John H. Finerty, associate counsel for the Rosenbergs, also granted that the court had that power, although he hoped it would not use it in this case.

"Nothing is beyond the power of this court," Mr. Finerty said.

"I'm not so sure," Chief Justice Vinson remarked.

Going Gets a Bit Rough

As the lawyers argued and the justices asked questions, the going got a little rough at times. Mr. Finerty aroused Justices Jackson, Tom C. Clark and Sherman Minton when he said the Attorney General's action in asking that a special term be convened was a reflection upon the integrity of Justice

Justice Douglas and of the entire court.

Justice Jackson wanted to know what Mr. Brownell had done that was so improper. The only thing he had noted in Mr. Brownell's petition that might be so construed, he said, was a statement that the situation was "unprecedented."

Mr. Finerty also assailed the conduct of the case by the Department of Justice, charging that the Government had "permitted a fraud on this court to happen," by convicting the Rosenbergs on testimony known to the prosecutors to be perjured.

"There never was a more crooked District Attorney in New York than the one who tried the Rosenbergs," Mr. Finerty asserted. Irving H. Saypol, now a State Supreme Court Justice, was the District Attorney at that time.

Justice Clark immediately suggested that Mr. Finerty would be more helpful to the court if he would argue the legal issues involved instead of attacking the Attorney General and the District Attorney. Justice Minton also took Mr. Finerty to task for "abusing the Attorney General."

Mr. Finerty said he did not "apologize for anything I have said."

In New York, Justice Saypol said he would "stand by the verdict of the jury."

"The matter is now in the courts," Justice Saypol observed when he heard of Mr. Finerty's charge. "I have nothing to say. I stand by the verdict of the jury."

Earlier, Daniel G. Marshall, not a member of the Supreme Court bar, had received permission, on motion of Mr. Bloch, to argue for

fifteen minutes. Mr. Marshall was one of the attorneys who presented the legal point upon which Justice Douglas granted the stay.

Justice Jackson asked Mr. Marshall whom he represented, and the lawyer said he spoke for Irwin Edelman of Los Angeles.

"Was he the Edelman who was before this court last year in a vagrancy case?" Justice Jackson asked.

"It was a free speech case," Mr. Marshall shouted, waving his finger at Justice Jackson. "It is improper to call it vagrancy. I think this is shocking in a capital case where human lives are at stake."

Chief Justice Vinson calmed the Los Angeles attorney by advising him, "Don't let your temperature rise."

Jackson Commends Bloch

Mr. Bloch, however, drew high praise from Justice Jackson for the manner in which he had presented his case in six appearances before the high court.

"I think you have done a fine professional job throughout," Justice Jackson told him. "These people are fortunate to have you for their counsel."

Mr. Bloch thanked the justice and spoke briefly of his long fight for the Rosenbergs and the reluctance of many lawyers to take unpopular cases. He said he hoped that Justice Jackson's comment would encourage more good lawyers to take clients whose causes did not meet popular approval.

Mr. Bloch argued that the court should follow the course set by Justice Douglas' order and let the applicability of the Atomic Energy Act be determined first by the District Court and then by the Court of Appeals. He said he had not had time to prepare arguments on the legal point involved, and neither had the other lawyers in the case, including Mr. Stern.

"I am not prepared," he said. "to

enlighten the court on the fundamental issues involved."

Justice Jackson wanted to know why it should go back to the District Court.

"It is a pure point of law," he said. "Why shouldn't we stay here and decide it and tell the lower courts what to do instead of asking them to tell us?"

That may have been one of the points argued among the justices during the three hours they were in the conference room.

Fyke Farmer, the Tennessee lawyer who presented the petition and the brief upon which Justice Douglas acted, was the only lawyer who said he was ready to argue the law. His arguments were close to the strictly legal aspects of the case.

In support of his contention that the Atomic Energy Act applied, he told the court it could not disregard the fact that Judge Kaufman had imposed the death sentence for atomic espionage. He said he was convinced the death penalty was void under the atomic act.

Justice Frankfurter asked if he felt "the indictment falls" under the penalty provisions of the atomic act although it was drawn under the espionage statute, and Mr. Farmer said he did.

2,000 New Yorkers Present

A crowd of nearly 2,000 New Yorkers milled about the Supreme Court Building and through the corridors of the Capitol as the court deliberated.

Members of the delegation carried mimeographed instructions to ask Representatives and Senators to call the Attorney General and the President, and to request a statement of each legislator's position on clemency for the Rosenbergs.

Passageways and the Capitol were jammed. Members of the House and Senate in a number of instances rejected requests for interviews.

Although the recess taken by the court saved the Rosenbergs from death tonight, picketing was resumed in the capital by groups urging clemency. Pickets at the White House had been withdrawn yesterday after Justice Douglas granted the stay, but early tonight they were marching four deep along the side of the White House and in front of the near-by Treasury Building.

The New York contingent had been advised by its leaders not to picket the court, so the usual banners and marching lines were absent there.

The expedition was arranged by the National Committee to Secure Justice in the Rosenberg Case. A special detail of fifty police was assigned to maintain order.

Vatican Explains View

~~The Herald Tribune Page~~
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ROME, June 18.—The Vatican today carefully distinguished between Catholic appeals for mercy in the Rosenberg case and "propaganda" appeals by the Communists.

Father Francesco Pellegrino, a Jesuit priest, prepared a commentary on the case which was broadcast by the Vatican radio today. It recalled that the Pope several months ago had "intervened" by calling to the attention of the United States government the many appeals for the Rosenbergs he had received and that many Catholic bishops had appealed for clemency.

"The Catholic appeals were "to a principle superior to all other human virtues—to pity," Father Pellegrino said. "We would like to say the same about the Communists, but why in similar trials and, certainly, for persons accused of less heavy crimes, as were Cardinal Mindszenty, Bishop Bossilkoff and others, could not a sense of justice or at least of pity have been expressed by the Communist press?"

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Rosenbergs Hear News After Anniversary Chat

By John G. Rogers

On their fourteenth wedding anniversary and four hours before their scheduled execution in Sing Sing Prison's electric chair, Julius and Ethel Rosenberg learned last night that the Supreme Court, in effect, had given them a reprieve of at least twenty-four hours and maybe more.

The condemned couple, convicted of conspiring to steal American atomic secrets for Russia, heard the news on the prison radio system at about 7 p. m., just after eating dinner in their separate green-walled cells in Sing Sing's death house.

Warden Wilfred L. Denno made it official a little later after he had received a telephone report from Washington. Showing little emotion, each of the Rosenbergs quietly said "Thanks." About an hour later, Rabbi Irving Koslowe, Jewish chaplain, left the prison, saying he had visited both of them before and after the decision and that they had been calm on each occasion.

Prison guards said that the Rosenbergs, who earlier in the day had had two ninety-minute chats together as a special privilege, displayed a momentary flash of facial emotion on hearing the announcement, and then lapsed into their customary staid front.

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Executioner Standing By
New York State's executioner, Joseph Francel, of Cairo in Greene County, had been standing by at the time in case the executions set for 11 p. m. should be re-authorized by a Supreme Court action overruling the indefinite stay issued on Wednesday by Associate Justice William O. Douglas.

By postponing decision the Supreme Court left the Douglas stay still in effect. If the stay is overruled in time for the executions to be performed before midnight Saturday the Rosenbergs may still die this week—the week set for their executions by United States District Judge Irving R. Kaufman.

If the Douglas stay is overruled but not in time for the Saturday midnight deadline a new week would have to be set by Judge Kaufman. If the Douglas stay is upheld or the case takes some other new turn the Rosenbergs' fate would be determined by events not now predictable.

Prison guards were present yesterday while the couple from New York's Lower East Side—the thirty-five years old and she thirty-seven—spoke in low voices through a wire screen in the death house.

Couple Meet Twice

The meetings of the condemned couple, in the prison where they have been confined for more than two years while their execution date has been scheduled and re-scheduled five times, occurred in late morning and early afternoon.

At about the same time, Communists and fellow-travelers all over the world, and also some persons falling into neither of these categories, continued their exhortation and demonstrations, contending that the Rosenbergs are either not guilty or do not deserve the death sentence.

A total of 1,818 persons bear-

ing banners urging clemency for the Rosenbergs traveled to Washington on a special train which left Pennsylvania Station at 9 a. m. yesterday and 500 were aboard a second which left at 2:40 p. m.

At Pennsylvania Station the Rosenberg committee sold tickets for the first of the special trains to Washington from a booth that usually sells tickets to Belmont race track. The tickets were sold for \$5, leaving the committee to make up \$3.74 a head, since the railroad charged \$8.74. However, extra money was solicited frequently, while a few persons who pleaded they were broke were given free tickets.

At the prison, thirty-one miles north of New York on the Hudson's east bank, Warden Wilfred H. Denno ordered a shift of extra guards to barricade prison property against any possible encroachment by pro-Rosenberg demonstrators.

The Rosenbergs, who have two young sons and are the first citizens in history to be sentenced to death for espionage by an American civil court, breakfasted yesterday morning on cereal with milk and sugar, and coffee. After their morning visit together, they lunched on frankfurters, sauerkraut and boiled potatoes.

Following their afternoon visit in the death house, which is only a few feet from the death chamber itself, they had dinner of meat with tomato sauce, mashed potatoes, bread with apple butter and iced tea.

So far as the prison was concerned, Justice Douglas' indefinite stay-of-execution was in effect until overruled, hence the

grim tradition of permitting the condemned to order the final meal in detail was not observed.

Mr. Francel, a gassed veteran of World War I, is paid \$150 per person executed, and also expenses traveling from and to his home in Cairo, which is some ninety-five miles northwest of the prison. The Federal government reimburses the state for those costs, and also for the more-than-two-year maintenance of the Rosenbergs, which is expected to total about \$3,500 for the husband and \$31,000 for the wife.

Because a woman is so uncommon in the death house, four special matrons had to be hired to attend Mrs. Rosenberg, a slight brunette weighing only about 100 pounds.

Both Listens to News

Mr. and Mrs. Rosenberg, both native New Yorkers, both graduates of Seward Park High School, had no visitors up to a late hour yesterday. They listened closely to all news broadcasts carried on the prison loud speaker system.

Mrs. Rosenberg, whose father was born in Russia, was a stenographer until married in 1939. She has been in Sing Sing's death house since April 11, 1951. Mr. Rosenberg, both of whose parents were born in Russia, graduated as an electrical engineer from City College in 1939. He has been in a green-walled death house cell, eight feet by twelve, since May 15, 1951.

The Rosenbergs lived in a \$51-a-month three-room apartment in Knickerbocker Village, at 10 Monroe St., when they were arrested in 1950—he on June 17 and she on Aug. 11. Their sons are Michael, 10, and Robert, 6.

5 TO STUDY IMPEACHMENT

House Names Subcommittee to Consider Douglas Case

Special to THE NEW YORK TIMES.

WASHINGTON, June 18 — A special subcommittee of five members was created in the House of Representatives today to consider the impeachment of William O. Douglas, Associate Justice of the Supreme Court.

The impeachment resolution was introduced yesterday by Representative W. M. Wheeler, Democrat of Georgia, as the result of the stay of execution granted for the convicted atom spies, Julius and Ethel Rosenberg. It charged "high crimes and misdemeanors in office."

The special panel was appointed by Representative Chauncey W. Reed, Republican of Illinois and chairman of the House Judiciary Committee. He said he did this instead of referring the resolution to one of the regular subcommittees "so that the other regular subcommittees would not be delayed in considering the other legislation pending before them."

Named to the special unit were Representatives Louis E. Graham of Pennsylvania as chairman, William M. McCulloch of Ohio and William E. Miller of New York. Republicans, and Francis F. Walter of Pennsylvania and J. Frank Wilson of Texas, Democrats.

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Why Kaufman Doomed Them

Why were Julius and Ethel Rosenberg sentenced to die as traitors? Here are some excerpts from Judge Irving R. Kaufman's ruling last Jan. 2, explaining his refusal to reduce the death penalty he imposed April 5, 1951:

"WE ARE DEALING with a crime of the mind and heart, traitorous acts of the highest degree...the murderer kills only his victim, while the traitor violates all members of his society to which he owes his allegiance."

"The Rosenbergs were not minor espionage agents; they were on the top rung of this conspiracy... wartime espionage. They sucked others into it."

"The Rosenbergs urge that Russia was our ally in 1944 and 1945, but Congress wisely did not distinguish between a friendly or enemy country in prescribing punishments for acts of espionage. Our leaders determined to withhold from this totalitarian government information concern-

ing the most deadly weapon known to man, a weapon that gave America military superiority. Should the Rosenbergs override our government's decision?"

"This weapon, were its secret inviolate, might have been crucial in maintaining peace in the postwar world."

"The families of these defendants are victims of their infamy, but I am mindful that countless other Americans may also be victims of that infamy."

"Underlying the provision for capital punishment in espionage and treason acts is the tenet that forfeiture of the life of the spy or traitor will serve as an example to those who may thereafter be tempted to commit similar acts... Our national security is more im-

portant than the punishment of any single individual."

"The evidence in this case was conclusive. I still feel that the Rosenbergs' crime was worse than murder. I have seen no evidence that the defendants have experienced any remorse or repentance. The court has no doubt that if the Rosenbergs were ever to attain their freedom, they would continue in their deep-seated devotion and allegiance to Soviet Russia, a devotion which has caused them to choose martyrdom and to keep their lips sealed."

"While I am deeply moved by considerations of parenthood and while I find death in any form heartrending, I have a responsibility to mete out justice in a manner dictated by the statutes and the interests of our country."

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Mother Goes to Capital

Mrs. Sophie Rosenberg, 71-year-old mother of Julius, flew to Washington yesterday. She said she would try to present a clemency plea personally to President Eisenhower.

Two additional legal efforts were made in Manhattan to reduce the death sentences. Arthur Kinoy, acting for defense counsel Emanuel H. Bloch, filed a motion with Judge Irving R. Kaufman for an order to vacate the judgment of the conviction on the ground that Judge Kaufman had lacked the power to impose the death penalty. The arguments followed the basis used by Justice Douglas in granting the stay.

In the second action, Judge Sylvester J. Ryan denied a petition by R. Bowland Ritchie, a Wichita, Kan., attorney, which sought an arrest of judgment and reduction of the death sentences to prison terms. Mr. Ritchie filed his papers by mail.

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~~SPIES 'OVERJOYED'~~ BY NEWS OF DELAY

Sing Sing Prepared to Carry Out Sentences, Now Awaits Further Court Action

Special to THE NEW YORK TIMES.

OSSINING, N. Y., June 18—

Warden Wilfried L. Denno and his staff at Sing Sing Prison heard over the prison radio shortly before 7 o'clock tonight the news of the Supreme Court's recess until noon tomorrow without a decision in the Rosenberg case.

Explaining that "of course Julius and Ethel Rosenberg must be told about the Supreme Court's latest action—they are both under a stay, and they are entitled to know what the court has done," the warden had the news passed to the relieved atom spies immediately.

They were "overjoyed," guards said.

United States Marshal William A. Carroll, in charge of plans for executing the death sentence on the Rosenbergs, confirmed that he would await word from the Department of Justice as to his next step. He left for New York shortly after 7 o'clock.

Death Plans Made

Earlier, in case the Supreme Court vacated the stay granted on Wednesday by Supreme Court Justice William O. Douglas, preparations had been made for the execution of the death sentence at 11 o'clock tonight. Joseph P. Franco, the Cairo, N. Y., executioner who serves as state executioner, had been notified to be at the prison well before the scheduled hour.

Warden Denno said he would await word from Mr. Carroll before taking further action should the Supreme Court vacate the stay granted by Justice Douglas.

In New York, United States Attorney J. Edward Lambard, and his chief aides remained in the United States Court House until after the Supreme Court had announced its recess.

This morning, on their fourteenth wedding anniversary, Julius Rosenberg, who is 35 years old, had a ninety-minute interview with his wife, Ethel, who is 37, to discuss developments in their case. In the afternoon they had a second visit together. The couple have two sons, Michael, 10, and Robert, 6. Rabbi Irving Koslowe, Jewish chaplain at the prison, saw the couple during the day.

Have Regular Dinner

Warden Denno took the position that Justice Douglas' stay would operate until it was actually vacated, and made no special arrangements for the Rosenbergs' dinner tonight.

"They ate regular prison fare," he said. "We have no execution scheduled."

While the National Committee to Secure Justice in the Rosenberg Case sent two trainloads of clemency pickets to Washington yesterday, none was reported here. A line of guards was placed across the only road to the prison to prevent any demonstration.

Mrs. Rosenberg, the only woman occupant of the death house, has been there for two years, two months and one week. Her husband has been in the death house two years, one month and three days. They received their first sentence of death on April 5, 1951.

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Associated Press Wirephoto

PLEAD FOR ROSENBERGS: Emanuel H. Bloch, left, chief counsel for Julius and Ethel Rosenberg, and Daniel Marshall, one of the two "outside" lawyers who won Wednesday's stay of execution, arriving yesterday at Supreme Court, which assembled in special session to reconsider the stay. The high court is expected to announce its decision at noon today.

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MANY ABROAD ASK MERCY FOR SPIES

Vatican Radio Says Catholics Sympathize With Clemency Moves—Pleas Are Cabled

Expressions of concern and protest over the fate of Julius and Ethel Rosenberg, convicted atom spies, continued to come from different parts of the world yesterday before the Supreme Court's recess.

The Vatican radio, in a special broadcast in several languages, spoke of the sympathetic attitude of many Roman Catholics throughout the world toward appeals for clemency for the condemned couple, but underlined the profound difference between Catholic appeals and those made by Communists. It said the Communists' "usual, organized and noisy campaign" had served only to arouse suspicion of all honest men interested in the case.

In Paris Roman Catholics were called to a special hour of prayer in Notre Dame Cathedral. The United Press reported. The service was called by the Christian Committee for Revision of the Rosenberg Trial and was said to have had the approval of Maurice Cardinal Feltin, Archbishop of Paris,

who cabled President Eisenhower asking clemency for the couple.

Leaders of the Anglican, Jewish, Presbyterian, Methodist and Congregational Churches and of the Church of Christ in Sydney, Australia, joined in signing a cable to the President asking him to exercise "your prerogative of clemency," it was reported by Reuters.

In London 200 persons thronged the House of Commons to obtain support for a petition asking Prime Minister Sir Winston Churchill to appeal for clemency. Some in the group tried later to see the Prime Minister personally.

From Brussels came a cable signed by that city's branch of the Belgium Socialist General Trade Union urging the President to grant a reprieve. Tugmen in the Australian port of Melbourne threatened to boycott American ships if the Rosenbergs were executed. The Melbourne Age reported.

Meanwhile, the Polish Press Agency said in Warsaw that its Government's offer of asylum for the Rosenbergs had been prompted only by "humanitarian" motives. A State Department officer had previously described the offer as "an impertinence."

In Ottawa pickets protesting the death sentences still marched in front of the United States Embassy and one delegation urged the Canadian Government to inform the United States that "thousands" of Canadians favored clemency.

Demonstrations in this country

continued yesterday. In Boston a minor fracas developed when a woman spectator, shouting "Go back to Russia," seized a sign from one of twenty pickets in front of the State House and hurled it into a trash barrel. In Los Angeles, 300 pickets marched outside the Federal Building bearing signs urging clemency.

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Douglas' Letter of Law Needs a Good Reading

What Did McMahon Mean When He Drafted Provision?

By RICHARD STARNES,
Scripps-Howard Staff Writer.

WASHINGTON, June 18.—The "substantial question" of law upon which Supreme Court Justice William O. Douglas based the stay of execution he granted to atom spies Julius and Ethel Rosenberg is this:

Did Congress intend to supersede or to soften the Espionage Act of 1917 when it passed the Atomic Energy Act of 1946?

The Rosenbergs were indicted, tried, convicted and sentenced to die under the 1917 Espionage Act, which provides capital punishment for betraying defense secrets in time of war.

But Justice Douglas' opinion suggested that the Atomic Energy Act could properly be held to ease punishment for atomic espionage.

Under the Atomic Energy Act—which became law after the overt crimes ascribed to the Rosenbergs had been committed—the death penalty may be imposed only if there is "intent to injure the United States . . . and upon recommendation of the jury. . . ."

Dead Man's Mind.

The jury which tried the Rosenbergs made no such recommendation, but it thought it was acting under the 1917 law, which requires none.

The heart of Justice Douglas' opinion is contained in this sentence: "One purpose of the Atomic Energy Act was to ameliorate the penalties imposed for disclosing atomic secrets."

The question must ultimately be decided by Justice Douglas' colleagues in the high court.

When they undertake to rule on the point they will inevitably have to try to read the mind of a dead man—Sen. Brian McMahon (D., Conn.), who died of cancer two years ago.

What was in Sen. McMahon's mind when he drafted that provision of the law?

Did, indeed, he intend to "ameliorate" the penalties for betraying atomic secrets?

Based on the Senator's own words, the answer seems to be no. "Make or Destroy."

On June 1, 1946, Sen. McMahon, chairman of the special Atomic Energy Committee, presented to

the Senate the result of five months' effort by the committee. "I am happy to tell the Senate," he said, . . . "the committee has agreed on every word and every line, and every clause of the bill."

Sen. McMahon pointed out that atomic energy, "can make or destroy America" and he discussed some important provisions of the bill.

"We also concluded," he said, "that it was necessary at this time to impose certain security restraints in regard to this subject."

"Those security restraints will be found written into the bill. This was one of the most difficult subjects with which we had to deal, because we realized that if we were to progress, as we must progress in this science, the maximum amount of freedom had to be allowed to scientists. At the same time, it was appreciated that during the pending state of the world's affairs it was absolutely necessary that we impose some restrictive clauses. . . ."

Then comes this key sentence which may be a vital signpost to the Supreme Court:

A Clincher.

" . . . we discovered," continued Sen. McMahon, "that the Espionage Act as it was written would not do, so section 1717 was written so as to strengthen the provisions of the Espionage Act and thus cover the subject."

A clincher, if one is needed, can be found in Sen. McMahon's extended remarks, printed in the Congressional Record for June 1, 1946. In discussing the security provisions of the law, he said:

"It became apparent in the early stages of our work that existing legislation was inadequate to protect those secrets which all agreed should be safeguarded. Under the Espionage Act, an agent may be prosecuted for the transmittal of secret documents, but the transmittal of 'information' as such is not limited by that act. Thus, according to the Attorney General's office, a foreign agent could receive or transmit top-secret information concerning the atomic bomb and not suffer any consequences."

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Congressmen Angered By A-Spy Pleaders

One Urges House Investigate New York Pressure Group

By ROGER STUART,
Staff Writer.

WASHINGTON, June 19.—Many Congressmen are still angry today over the pro-Rosenberg pressure groups which descended onto Capitol Hill yesterday while the Supreme Court was considering the case of the two atom spies.

While the court was in session, about 1900 pro-clemency adherents, mostly from New York, suddenly put in an appearance.

Making a bee-line for the Capitol, they sought to impress legislators, Attorney General Herbert Brownell Jr., and the White House in behalf of Julius and Ethel Rosenberg, convicted spies.

Asks Probe.

One congressman—Rep. Carroll D. Kearns (R., Pa.)—became so concerned that he prepared a resolution calling for an investigation of the group.

Charging the visitors were trying to "intimidate justice in America," Mr. Kearns demanded to know "who has organized and who has underwritten" the group.

Another legislator — a New Yorker said "I don't mind receiving delegations of citizens who are properly interested in legislative matters. But I'm getting tired—very tired—of these professional demonstrators who always show up in huge numbers every time some Communist gets his name in the news."

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Carried Instruction Sheet.

Each member of yesterday's delegation carried an "instruction sheet," given to him as he or she alighted at Union Station. Not only were the visitors told to divide into groups and call on members of Congress with a plea for clemency for the Rosenbergs, but also to attempt to obtain commitments from the legislators they visited.

"Remember," the delegates were further told, "you came to Washington representing a movement for clemency for Ethel and Julius Rosenberg in which millions are participating. Your responsible, dignified conduct will impress everyone with the seriousness of the situation."

Directed by Committee.

The instruction sheet declared that "no one is authorized to engage in any action without specific authority of the committee." This referred to the National Committee to Secure Justice for the Rosenberg case,

whose headquarters were noted at the top of the sheet.

Other representatives of the committee, who had picketed the White House for days, were called off Wednesday, after Supreme Court Justice William O. Douglas granted a stay in execution.

Police watched yesterday's marchers closely.

Two uniformed guards were dispatched by the Capitol police to stand before the door of Rep. W. M. (Don.) Wheeler (D., Ga.) in the old House office building. Mr. Wheeler is the author of a bill, introduced Wednesday, to impeach Justice Douglas, whose stay resulted in the whole court's being called into special session.

Mrs. Greenglass Secludes Self

A blaring radio in the tenement flat of Mrs. Tessie Greenglass, mother of Mrs. Julius Rosenberg, was shut off today moments after announcement that the U. S. Supreme Court had vacated the stay of execution granted the pair by Supreme Court Justice Douglas.

Shortly before noon, when the court was to announce its decision, a reporter knocked at the ground floor rear flat at 64 Sheriff st., on the Lower East Side.

A woman answered:

"Who is it?"

When the reporter identified himself, the woman answered:

"I'm sorry."

The reporter heard a radio playing in the apartment.

HEARS OF DECISION.

A few minutes later, when the reporter heard the decision over a radio in a small barber shop across the street, he returned to the dingy building.

His knocks drew no response. He shouted:

"Did you hear the radio announcement?"

There was no answer.

"May I speak with you?"

Again, no answer.

Reporters rang the bell vainly at the home of Mrs. Sophie Rosenberg, Julius Rosenberg's 71-

year-old mother, shortly after the decision was announced.

Mrs. Rosenberg lives in a three-room apartment on the second floor of a six-story house at 36 Laurel Hill ter. in a quiet section of Washington Heights overlooking the Harlem River pkwy.

Most of the neighbors in the 24-family house refused to talk to reporters about the case.

One neighbor on the same floor, Mrs. Sidney Schwartz, in a peephole conversation with reporters, said she believed Mrs. Rosenberg was in Washington. She said she last saw Mrs. Rosenberg yesterday.

N.Y. JOURNAL AMERICAN

Sophie Rosenberg

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J.P.

Kaufman Has No Comment

A current of excitement ran through the Federal Building here today at news of the Supreme Court verdict that the Rosenbergs must die.

Judge Irving R. Kaufman, who sentenced the Rosenberg to death in the electric chair, refused to comment "in any way" on the case.

Telephones rang almost constantly throughout the building in which the Rosenbergs were sentenced as word of the verdict spread.

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[Handwritten signature]

Both A-Spies Born, Lived On East Side

Julius and Ethel Rosenberg both were born on the lower East Side to poor Russian immigrants.

The couple spent most of their lives in the neighborhood in which they grew up, and occupied a \$51-a-month apartment in a housing development there when they were arrested in 1950 on espionage charges.

Ethel was two years older than her husband. At 37 she weighed only 100 pounds, and stood barely five feet tall. Her husband, 35, was an engineer.

Mrs. Rosenberg was the daughter of Barnett and Tessie Greenglass. Her father was born in Russia, her mother in Austria.

She attended high school, then took a secretarial course and modern dancing. Later she studied child psychology.

Rosenberg and his wife met while they were in high school. He was graduated from City College in 1939, the year they were married. They had two children, Michael, 10, and Robert, 6.

Rosenberg was a civilian employe of the Army Signal Corps here and was dismissed in 1945 on charges he was a Communist. He engaged with relatives in operating a machine shop until his arrest.

Both of Rosenberg's parents, Harry and Sophie Rosenberg, were born in Russia.

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THOSE INVOLVED IN ATOM-SPY CASE

Here is the cast of characters in the case of Julius and Ethel Rosenberg:

Julius Rosenberg — 35-year-old former electrical engineer, convicted with his wife, Ethel, 37, of passing atomic secrets to the Russians during World War II.

Morton Sobell — Electronics engineer, convicted with the Rosenbergs and sentenced to 30 years in prison.

David Greenglass — Mrs. Rosenberg's brother, sentenced to 15 years in prison for his part in the conspiracy.

Ruth Greenglass — Greenglass' wife. An indictment against her was dropped after she cooperated with the Government.

Anatoli A. Yakovlev — Former Soviet vice consul in Manhattan, indicted with the Rosenbergs. He fled the country long before the Rosenbergs' arrest.

Alan Nunn May — British scientist who pleaded guilty to transmitting secrets to Russia in the international conspiracy. He was sentenced to 10 years in prison and was released a few months ago.

Klaus Fuchs — German-born British atomic physicist who pleaded guilty to membership in the espionage ring and was sentenced to 14 years in prison.

Harry Gold — Philadelphia chemist who confessed he was a contact man and courier for two agents. He was sentenced to 30 years in prison.

Ivor Gouzenko — Cipher clerk in the Soviet Embassy in Ottawa who told authorities about the spy ring in 1945.

William Perl — Jet propulsion expert sentenced June 5, 1953, to five years in prison for lying when he said he did not know Rosenberg and Sobell.

Alfred Dean Slack — Syracuse scientist, sentenced to 15 years for giving Gold a secret formula for explosives.

Abraham Brothman — Engineer sentenced to seven years for plotting with Gold to lie to a grand jury in 1947.

Miriam Moscovitz — Brothman's secretary, sentenced to two years on the same charge.

Federal Judge Irving R. Kaufman — Trial judge who sentenced the Rosenbergs and Sobell.

Emanuel H. Bloch — The Rosenbergs' attorney.

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N.Y. BUREAU OF INVESTIGATION

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Ike Labels Rosenberg Acts Betrayal of Entire Nation

President Eisenhower has described the espionage activities of Julius and Ethel Rosenberg as a betrayal of the cause of freedom and of the entire nation.

In refusing to grant the couple executive clemency last Feb. 11, Eisenhower said:

"The nature of the crime for which they have been found guilty and sentenced far exceeds that of the taking of the life of another citizen; it involves the deliberate betrayal of the entire nation and could very well result in the death of many, many thousands of innocent citizens. By their act these two individuals have in fact betrayed the cause of freedom for which free men are fighting and dying at this very hour."

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~~CHRONOLOGY~~ TRACES STORY OF ROSENBERGS

Dates in the still uncompleted tale of atomic espionage leading to the execution of Julius and Ethel Rosenberg:

September, 1945—The espionage story began when Ivor Gouzenko, Soviet Embassy cipher clerk in Canada, revealed to police the existence of a Soviet spy apparatus stealing Canadian, U. S and British secrets.

March 5, 1946—British scientist on Un-American Activities reports foreign ring operating in eastern U. S. to steal atomic secrets. FBI on trail.

March 5, 1946—British scientist Dr. Alan Nunn May, arrested as result of Gouzenko information, pleads guilty to "transmitting secret information." (Sentenced to 10 years in jail, he served six years, eight months, was released Dec. 29, 1952, still convinced he had acted rightly.)

Feb. 2, 1950—Notes in Nunn May diary and work by FBI led to arrest in London of atom scientist Dr. Klaus Fuchs. He pleaded guilty to transmitting secret information and was sentenced to 14 years in jail.

May 23, 1950—FBI arrests Philadelphia biochemist Harry Gold, Fuchs' contact man in U. S. and courier for two Soviet agents. He confessed and was sentenced to 30 years in prison.

June 16, 1950—David Greenglass, former U. S. Army sergeant assigned to the Los Alamos project, arrested in New York on basis of information given by Gold. Greenglass confessed and was sentenced to 15 years in prison.

July 17, 1950—Julius Rosenberg, Greenglass' brother-in-law, arrested on basis of information given FBI by Greenglass.

Aug. 11, 1950—Ethel Rosenberg arrested.

Aug. 17, 1950—Julius and Ethel Rosenberg indicted, together with former Soviet Vice Consul Anatoli Yakovlev, who fled U. S. in 1946, on charges of conspiring to transmit atomic secrets to Russia.

March 6, 1951—Rosenbergs and co-defendant Morton Sobell go on trial.

March 29, 1951—Rosenbergs and Sobell found guilty by jury of 11 men and one woman, who deliberated 7 hours, 42 minutes.

April 5, 1951—Federal Judge Irving R. Kaufman sentences Rosenbergs to death during the week of May 21, 1951. Sobell was sentenced to 30 years in prison.

(The immediate filing of appeals on behalf of the Rosenbergs and Sobell automatically stayed the execution. The appeals were argued during the remainder of 1951.)

Feb. 25, 1952—U. S. Circuit Court of Appeals upholds convictions.

April 8, 1952—Appellate Court denies petition for rehearing on Feb. 25 ruling.

Oct. 13, 1952—U. S. Supreme Court rejects appeals by Rosenbergs and Sobell for review of case.

Nov. 17, 1952—U. S. Supreme Court again refuses to consider case (8-1 decision).

Nov. 21, 1952—Federal Judge Kaufman orders Rosenbergs executed the week of Jan. 12, 1953.

Dec. 31, 1952—Appellate Court denies petition for retrial.

Jan. 2, 1953—Kaufman refuses judicial clemency for Rosenbergs.

Jan. 5, 1953—Kaufman grants stay of execution, saying he will set new date five days.

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after President rules on appeal for Presidential clemency.

Jan. 10, 1953—Appeal for Presidential clemency filed in Washington.

Feb. 11, 1953—President Eisenhower denies clemency.

Feb. 16, 1953—Kaufman sets new execution date for week of March 9.

Feb. 17, 1953—Circuit Court of Appeals grants stay of execution pending appeal to U. S. Supreme Court for review of case.

May 25, 1953—U. S. Supreme Court rejects review appeal and vacates stay of execution.

May 26, 1953—Chief Justice Fred M. Vinson denies application for stay of execution pending filing of petition for rehearing on review appeal.

May 29, 1953—Kaufman sets execution for week of June 15.

June 2, 1953—U. S. Marshal sets execution time for 11 p.m., EDT (June 18).

June 15, 1953—Supreme Court refuses stay of execution and refuses to review the case.

June 17, 1953—Associate Justice Douglas grants temporary stay after question was raised as to applicability of the 1917 espionage law under which couple was sentenced.

June 18, 1953—Supreme Court meets in special session, hears arguments on question and delays decision to June 19.

No More Legal Bars Seen To Rosenbergs' Execution

Washington, June 19 (UP)—The Supreme Court today cancelled the stay of execution which was granted to atom spies Julius and Ethel Rosenberg by Justice William O. Douglas Wednesday.

Barring any further effective delaying maneuvers by the defense, the Rosenbergs can be executed in the Sing Sing electric chair any time.

This was the seventh time the high tribunal has turned down the condemned couple.

Their one main hope of escaping death now was Presidential clemency, an unlikely possibility unless they change their minds and decide to talk to the FBI.

President Eisenhower refused clemency once before—on Feb. 11—and indicated this week he would do so again.

The court apparently reached its decision to overrule Douglas on a 6 to 2 vote. Douglas and Justice Hugo L. Black dissented. Justice Felix Frankfurter wanted more time to think it over.

The fateful decision was announced immediately after the court reconvened in extraordinary session at noon.

The tribunal had been called together in special session yesterday at the Government's

urgent request to consider Douglas' action in staying the execution, which originally was scheduled for 11 p.m. yesterday.

Rosenberg sympathizers, ranging in political coloration from the readers of the New York Communist Daily Worker to Cardinals of the Roman Catholic Church, continued to bombard the White House with pleas for mercy.

The most spectacular demonstration, well advertised in advance by the Daily Worker, brought 2,000 Rosenberg sympathizers here late yesterday by special trains from New York, New Jersey and Philadelphia. For five hours, from 6 to 11 p.m., they picketed the White House under the watchful eye of a reinforced police detail. A smaller group continued the patrol through the night.

As the pickets walked before the Executive mansion with printed placards proclaiming the Rosenbergs' innocence and demanding clemency, they were picketed by

an apparently unorganized group of dissenters who with home-made signs urged the President to let the Rosenbergs die and send their supporters "back to Russia."

Twenty blocks away from the shuffling picket line, the real life-and-death drama was being played out in the hushed marble hall of the Supreme Court.

Six times before the Rosenberg case had come before the high tribunal, and six times it refused to intervene. Three of the turndowns came in rapid succession last Monday, on the last day of the court's regular Spring term.

Then, after the court had recessed for the Summer and several of its members had left

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No Bar Is Seen To Execution Of Rosenbergs

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town, Justice Douglas exercised the right of an individual justice to grant a stay of execution. He said defense lawyers had raised a "substantial new question" that ought to be threshed out in court before the Rosenbergs' lives were "snuffed out."

Question Before Court

The question was whether the Rosenbergs should have been sentenced under the 1946 atomic control law, rather than under the 1917 espionage law. Both provide for the death penalty, but the later law says it may be imposed only on recommendation of the jury. There was no such recommendation for the Rosenbergs.

Acting Solicitor General Robert L. Sniern argued for the Government that the atomic law could not apply because (1) the Rosenberg conspiracy covered theft of many kinds of military secrets besides the A-bomb, and (2) the overt acts of spying charged against them all occurred during World War II, before the atomic law was passed.

Defense attorneys argued that the overall conspiracy charged against the Rosenbergs continued into 1950, according to the prosecution's own case, and the atomic law therefore should have applied.

Douglas and Justices Robert M. Jackson, Felix Frankfurter, Tom C. Clark and Hugo L. Black peppered the opposing attorneys with questions, designed to clarify technical legal issues involved.

Then the justices retired to their private conference chamber. At 3:52 p.m. to begin secret deliberations. At 6:25 p.m., Justice Harold H. Burton announced:

"The court will stand recessed until 12 noon tomorrow."

Throughout the Capital, members of Congress and high Government officials had crowded around news tickers to await the court's word. In one of these groups was Attorney General Herbert Brownell Jr. Moments after the news came over the wires, his secretary entered the room and said President Eisenhower wanted him on the telephone.

The big question raised in nearly every Capital conversation was why the court withheld its decision overnight.

One popular guess was that the court had been unable to reach a decision.

Believed Justices Want Time

But veteran court observers were inclined toward the theory that the justices had reached their decision, but wanted time to write formal opinions.

The last emergency session of the court was held on July 29, 1942, to act on appeals from eight Nazi saboteurs landed in this country by U-boats.

In that case, the court handed down its decision at noon on the day following the end of oral arguments. It acted then in a brief order, and issued written opinions several months later, after death sentences had been carried out on the saboteurs.

Rosenbergs at Lunch— Hear Fateful News Calmly

By HENRY BECKETT

New York Post Correspondent

Sing Sing Prison, June 19—In their separate cells, Julius and Ethel Rosenberg learned today that their tomorrow will never come.

The doomed couple was having lunch after a 90-minute whispered conversation during the morning, when news came over the prison radio that the Supreme Court had doomed them.

Attendants said neither showed any emotion.

A short time later they heard that President Eisenhower had denied them clemency, their last chance to escape the chair.

In New York City, U. S. Marshal Carroll conferred with Justice Dept. officials in Washington and said the executions will take place tonight, possibly "much earlier than 11 p.m."

Carroll, before leaving for the prison, advised reporters assigned to cover the executions to be at the prison "not later than 7 p.m."

Asked if the executions were being moved up so that they could be carried out before the Jewish Sabbath, Carroll said only that "that decision is being made in Washington."

The Jewish Sabbath starts at sundown tonight, which is at 8:31 daylight time. It appeared the two might go to the chair before that hour.

Before the decision came, the two were to have another 90-minute visit during the afternoon. But once the day became their execution day they received permission to visit with each other until within two hours of the time they die.

There was a report that their two young sons may visit them later in the day. As condemned persons they may have as many visitors before 9 p.m. as they wish.

During the morning, their mask-like faces pressed close

against the heavy wire-mesh barrier, the Rosenbergs whispered together on this added day of life.

They were together from 9:30 until 11, talking in low tones, but guards who stood at their elbows could see no trace of emotion on their faces.

It was yesterday repeating itself, for 24 hours ago they had no knowledge they would be alive today, and today they still waited.

Both had refused any special food and at noon they sat down in their cells to the routine Friday menu. There were fish filets with tomato sauce, mashed potatoes, string beans, jello and coffee.

It was this meal which was interrupted with the fateful announcement.

They were to be visited later by Rabbi Irving Koslowe, who has been with them on recent days.

Rabbi Koslowe has been Jewish chaplain at Sing Sing since August, 1950, and has accompanied other condemned persons on the walk to the electric chair.

All was in readiness for the execution. Joseph Francell, of

Cairo, N. Y., the executioner who receives \$150 each as his fee, was standing by.

The Rosenbergs will be the first U. S. civilians to die for espionage in peacetime and the first American man and wife to be executed together. The execution will be the first carried out by the Federal government in New York since July 13, 1860, when a sailor was hanged in Manhattan for mutiny.

Ossining police began blocking all roads leading to the prison to forestall a demonstration, but there were no signs that any was planned.

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...Then a Mother Shut Off the Radio

In the East Side tenement flat the radio blared at noon today, as it did in countless others in that crowded neighborhood.

But in this flat its tones had a special urgency for the gray-haired woman who listened.

Any moment, now, this radio could tell this little old woman whether her daughter would live to see tomorrow.

Mrs. Tessie Greenglass waited beside her radio to hear the fate of her daughter, Ethel and her son-in-law, Julius Rosenberg.

The minutes dragged. There were music and commercials, and there was news—and the weather forecast for tomorrow.

And then there was a bulletin. The news came, and then it gave way to more music, and more commercials, and the flood

of noise continued in the thousands of apartments but not in this one.

There was no more need for words, nor for music, and the radio was silenced.

Mrs. Tessie Greenglass was silent in a silent apartment.

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A-Spy Pickets Plod Around White House

By the United Press.

WASHINGTON, June 19.—Thousands of men, women and children plodded before the White House last night, grimly entreating President Eisenhower to spare atomic spies Julius and Ethel Rosenberg from the electric chair.

Between 2000 and 3000 pickets who came here from New York, Newark and Philadelphia were given heavy police protection. The mass demonstration began at 6 p.m. and at 11:01 p.m.—the hour when the Rosenbergs would have been dead had it not been for the execution stay granted by Associate Justice William O. Douglas—most of the pickets returned to their special train and went home.

By mid-morning today about 300 pickets again were on the line. pro-Rosenberg forces paraded in a

The pickets last night were well organized and thoroughly disciplined. Walking two and three abreast, the pro-Rosenberg forces paraded in a huge ring around the block occupied by the Treasury. They filled the sidewalk on the Pennsylvania Ave. side of the Executive Mansion, and spilled over to a third picket line in front of the old State Department Building.

A much smaller group—less than a dozen—of anti-Rosenberg pickets marched at one end of the White House block, carrying home-made

placards saying "Kill the Dirty Spies and Ship Their Bones to Russia" and "Kill the Stinking Rotten Reds."

A heavy stream of automobile traffic circled slowly around the area. Curses exploded frequently from the passing cars as the pickets were urged: "Go back to Russia." Police would not permit anti-Rosenberg demonstrators to mingle with the organized group.

"Close up the gaps and walk like you're on a vigil," shouted the picket captains when the line slowed.

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N. Y.

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Rosenbergs Die Tonight! Court and Ike Reject Pleas

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N. Y.

DATED JUN 19 1953

FORWARDED BY N. Y. DIVISION

By MALCOLM LOGAN

The Supreme Court and President Eisenhower today refused to save the lives of atom-bomb spies Julius and Ethel Rosenberg and they will die in the Sing Sing electric chair tonight.

Unless there is some unforeseen legal development, the Rosenbergs who have always maintained that they were innocent, were doomed unless they should confess and tell everything they know about Soviet espionage.

These were the swift events today that closed all other avenues of escape:

At noon the Supreme Court in a 6-3 decision cancelled the stay of execution granted them Wednesday by Justice Douglas.

At 1:38 it refused to reconsider its decision and declined to stay the execution until a new clemency appeal could be presented to President Eisenhower. It adjourned its extraordinary session at 1:41 p.m.

At 2:09 p.m., White House press secretary Murray Snyder announced: "The President declines to intervene."

Half an hour later U.S. Marshal Carroll said here that the Rosenbergs would die tonight and that the execution "may be held earlier than 11 p.m."

The President's decision, reaffirming his refusal last Feb. 11 to commute the Rosenbergs' sentence, was made after he had consulted with Attorney General Brownell and special White House counsel Bernard Shanley. In his formal statement, he said:

"... I can only say, by immeasurably increasing the chances of an atomic war, the Rosenbergs may have condemned to death tens of millions of innocent people all over the world.

"The execution of two human beings is a grave matter. But even graver is the thought of the millions of dead whose deaths may be directly attributable to what these spies have done."

The President added that "only most extraordinary circumstances would warrant executive intervention." This seemed to convey the possibility that the Rosenbergs might save their lives if they made full confessions.

Emanuel Bloch, chief counsel for the Rosenbergs, heard this news while eating lunch.

"I intend to go over to the White House and make a personal appeal to the President of the United States," he said.

With a wry smile, he said he would "not create a disturbance" if he were refused admission at the White House gates where 300 Rosenberg sympathizers, some sobbing at the news, still picketed. **Three Dissent**

The Court majority which ended the stay of execution consisted of Chief Justice Vinson and Justices Reed, Jackson, Burton, Clark and Minton. Justices Douglas and Black vehemently dissented and Justice Frankfurter opposed the decision because he thought the legal issue merited further study.

The issue was whether the Rosenbergs were improperly sentenced to death under the 1917 espionage act. The two outside lawyers who raised this issue contended that the couple should have been sentenced under the 1946 Atomic Energy Act. Th

Continued from Page 3

cause his lawyer did not raise a legal question."

This was apparently his reply to the majority decision's statement that the point was brought up, not by Bloch, but by Fyke Farmer of Nashville, Tenn., and Daniel G. Marshall of Los Angeles, representing a client who did not even know the doomed couple.

Douglas said Judge Kaufman "had no power to impose the death penalty."

"I know deep in my heart," he said, "that I am right on the law and therefore I see my duty."

Justice Black not only questioned the majority decision but the court's right to vacate the Douglas stay and the action of Justice Vinson in recalling the court to hear the Justice Dept.'s motion to end the stay.

"Surely," he said, "the court is not setting the precedent of calling special sessions every time a Federal official asks for it."

Black said he "found no statute which permits the full court to set aside a temporary order granted by an individual justice."

"The oral argument has been wholly unsatisfactory," he went on, "and certainly I have not had time to adequately consider the question raised."

The argument yesterday, he said, left him with the "firm conviction" that the applicability of the Atomic Energy Act to the Rosenberg case "presents a substantial and serious question."

"Judicial haste is particularly

out of place" where the death penalty is involved and "more injudicious argument" would better conform to the court's "finest traditions."

Justice Black, noting that he had voted to review the case last fall, added:

"It is not amiss for me to point out that this court has never reviewed this full record. It has never affirmed the fairness of the trial below."

"Without this, there may always be a question whether these executions were legally and rightfully carried out."

Justice Frankfurter's disagreement was announced by Justice Vinson and later Frankfurter filed a brief statement saying the legal questions were "complicated and novel."

"I believe that in order to enable the court to adjudicate these issues upon adequate deliberation, this application should be disposed of only after an opportunity has been afforded to counsel for both sides to make an adequate study and presentation."

As the court was about to rise, Bloch arose and pleaded for another stay to permit an appeal to the President.

He said he understood "the execution of the Rosenbergs in the light of the court's decision will now take place at 11 o'clock tonight."

"Tens of millions of people throughout the world are deeply disturbed over the Rosenberg case," he said.

Both Motions Denied

Farmer also asked the court to reconsider its decision and Justice Vinson said both motions would be considered.

The justices left the bench at 12:30 and at 1:21 p.m. went into conference. Just 17 minutes later they returned to the bench and Justice Vinson announced that both motions were denied. It was not for the Supreme Court, he said, to enter into the clemency question.

Justice Black dissented in both cases.

When the court again rose at 1:41 p.m., court crier George Hutchinson rapped his gavel and announced:

"The special term of court is now adjourned."

The court, which heard three hours of argument yesterday and then deliberated more than three hours, resumed its discussion in chambers at 10:30 a.m. before the public session began.

The court's failure to agree yesterday saved the condemned couple from a wedding anniversary execution. The court recessed barely four hours before 11 p.m., the hour when the pair was to die as Soviet spies.

During argument yesterday Justice Jackson remarked, "The probabilities are that if the Atomic Energy Act covers this case, the whole case is out."

This raised the question that if the sentences passed under the General Espionage Act were illegal, then so were the indictments.

Acting Solicitor General Stern, arguing the case for the government, indicated he didn't think the government would have much of a case under the Atomic Energy Act.

"The assumption of the defense is that the case could have been brought under the Atomic Energy Act," he said. "If it had been, the case would have been thrown out so quickly the government would have been a laughing stock."

Bloch argued that the applicability of the Atomic Energy Act should be decided first by the District Court, then by the Court of Appeals as outlined by Justice Douglas in his stay order.

But Justice Jackson said: "It is a pure point of law. Why shouldn't we stay here and decide it and tell the lower courts what to do instead of asking them to tell us."

This session came to a close when Justice Burton ended the suspense by mounting the bench alone and announcing: "The court will stand recessed until 12 noon tomorrow."

Meanwhile, the furor continued abroad over the Rosenberg case.

The Vatican radio, in a special broadcast in several languages, drew a sharp line between Catholic appeals for clemency and those made by Communists.

It said the Communists' "usual, organized and noisy campaign" had served only to arouse the suspicion of honest men interested in the case.

The Christian Democratic newspaper, Il Popolo of Rome, pointed out that no Communists were denouncing the shooting of East German workers by Communist police and Soviet troops.

"We ask for mercy for the Berliners, as we did for the American traitors over whose fate Communists all over the world have been shedding tears for months," the newspaper said.

1946 law provides that the death penalty can be imposed only if the jury recommends it and the indictment charges an intent to injure the U. S.

Speaking for the majority, Justice Vinson said that "we do not doubt that Mr. Justice Douglas had the power to issue a stay."

That, so far as the court was concerned, apparently disposed of the resolution to impeach Justice Douglas, introduced by Rep. Wheeler (D-Ga.) and referred to a special Judiciary subcommittee. Wheeler, however, told reporters: "I'm going to proceed" and contended that the decision "strengthens my case against Douglas."

Considered "On Merits"

Vinson, continuing in a calm, deliberate voice, said that although the issue was raised by lawyers who do not represent the Rosenbergs, the full court has considered it "on its merits."

"We think the question is not substantial," he said. "We think that further proceedings are unwarranted. The Atomic Energy Act does not repeal or limit the 1947 act. The stay is therefore vacated."

Douglas, his voice charged with emotion, then voiced his dissent. He said he had spent "quite a few more hours" studying the legal question than had the other justices, and he said in a clear, defiant voice:

"Now I know I am right on the law. No man or woman should go to his death merely be-

Continued on Page 22

Meets at Noon:

Supreme Court Decision Due On Rosenbergs

Doubt success of move to impeach Douglas.—Page 13.

Prosecution staff amazed by stay.—Page 12.

Life for Rosenbergs a matter of months, days, hours.—Page 12.

Other related stories on Page 13 and in picture section.

By WILLIAM KERWIN

International News Service Staff Correspondent

WASHINGTON, June 18.—The Supreme Court meets in special session today to decide whether to strike down the unprecedented stay of execution granted Julius and Ethel Rosenberg by one member of the tribunal.

Chief Justice Vinson summoned the High Court to a noon meeting to listen to a Government demand that the action of Justice Douglas be cancelled so the execution can proceed on schedule at 11 p. m. (N. Y. time) tonight in Sing Sing Prison.

Six justices constitute a quorum of the court. Eight, and possibly all nine, are expected to be present.

Douglas Interrupts Trip

Douglas, who was en route by auto to the Pacific Northwest for a vacation, planned to fly from Pittsburgh to Washington this morning. There was no immediate indication whether Justice Minton, another absentee, will return.

Douglas, who has spent the last 14 years on the high bench, was sternly criticized in Congress and by Attorney-General Brownell for his decision.

Rep. Wheeler (D.-Ga.) introduced two bills calling for the impeachment of the 54-year-old jurist and an investigation of his conduct in the court.

The impeachment resolution charged Douglas with "high crimes and misdemeanors."

Brownell, apparently fighting mad, denounced the decision as an "unprecedented action" and called on the court to act "as expeditiously as possible."

There was no doubt that the Government hoped for a

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Unusual Special Session:

Court Decides Today On Douglas Ruling

By WILLIAM KERWIN
Continued from First Page

court decision that would permit authorities to proceed with the electrocution of the Rosenbergs on schedule.

Despite this, the convicted atomic spies, parents of two young sons, were reported "very happy" over the Douglas decision. For more than two years they have been quartered in the Sing Sing death house awaiting the electric chair.

Their lawyer, Emanuel H. Bloch, however, seemed perturbed over Brownell's demand and Vinson's decision to call a special court session. He told a reporter:

"I've no idea what I'm going to do or how far I will get."

At the last minute, he obtained unexpected help, with the announcement that James R. Newman, former chief counsel for the McMahon Committee on Atomic Energy who helped draft the law providing penalties for transmitting atomic secrets, will appear as an associate defense attorney.

In his opinion, Douglas made it clear that he was not attempting to override the court's overwhelming decision Monday against reviewing the case, granting a stay of execution or issuing a writ of habeas corpus.

He said that because a "serious" question—never before presented—on the method of sentencing the Rosenbergs had been raised, he felt impelled to grant the stay. In the past, he has both opposed and favored Supreme Court review of the sensational spy case.

The question—ironically raised by a group of "intruding" lawyers—concerned whether the Rosenbergs should have been prosecuted and sentenced under the more lenient Atomic Energy Act of 1946 instead of the stiffer wartime Espionage Law passed in 1917.

The Rosenbergs allegedly masterminded a Russian spy ring from 1944 until their arrest in August, 1950. This cast "serious doubt" in Douglas' mind as to the legality of the sentencing—so he granted the stay.

The 1946 statute requires proof that a person transmitted secret atomic information to a foreign government with intent to harm the U. S. or for personal profit.

Moreover, the death penalty must be recommended by a jury.

LONG DELAY POSSIBLE

The Rosenbergs were convicted of treason under the 1917 law and Federal Judge Irving R. Kaufman, of New York, imposed the death sentence.

If upheld by the high court, Douglas' action would delay a final decision on the case indefinitely. Bloch guessed the case could not be closed for perhaps a full year.

But Brownell demanded a ruling from the court itself on the Douglas ruling, contained in an eight-page opinion. The Attorney General asked the high court to vacate the Douglas stay or reaffirm its decision Monday against granting a postponement in the execution.



PRIVATE CITIZEN...

This is Irwin Edelman, of Los Angeles, Calif., whose lawyers, Fyke Farmer of Tenn., and Daniel G. Marshall, Los Angeles, presented the application for the writ of habeas corpus which prompted Justice Douglas to grant stay of execution.

International News Service photo.

~~Add to Guard~~ At Home of A-Spy Judge

(Photo in Picture Section)

The guard over the Park ave. home of Federal Judge Irving R. Kaufman, who sentenced the Rosenbergs, was increased today as the result of a bomb threat last night.

This was the second such threat in a week.

A man who refused to give his name, called Brooklyn Police Headquarters at 10:09 last night and said:

"I'm a resident of the building in which Judge Kaufman lives. A bomb is going to explode there in 20 minutes."

Detectives from the Bomb Squad and the E. 104th st. station sped to the scene.

THOROUGH SEARCH.

A thorough search of the building was made but no bomb found.

The policeman on duty said all had been quiet during the evening and no one approached the Kaufman apartment.

Judge Kaufman, his wife and two children are not living in the apartment at the present time.

A similar call was received by police at 2:09 a. m. last Saturday and the building searched.

Police said that until further notice the 16-story building and the Kaufman apartment would be guarded around the clock by four policemen instead of the one that has been on duty.

One will be stationed at the Kaufman apartment door, one in the lobby and one in each side street bounding the building.

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JAH

Judge Threatened



BOMB SOUGHT . . . Police Emergency Squad No. 6 examine an air duct in the hall of the Park ave. home of Federal Judge Irving H. Kaufman, who sentenced the Rosenbergs, after a bomb threat—the second in a week. A thorough search revealed no bomb. The Judge, his wife and their two children are not living in the apartment at the present time. (Story on Page 13.)

Journal-American Photo by William [unreadable]

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Continued Edition

Flood of Protests:

Hundreds Blast Douglas Ruling

Hundreds of outraged callers swamped the N. Y. Journal-American telephone switchboard last night and early today protesting Justice Douglas' stay of execution for the Rosenbergs.

"Who put Douglas in the U. S. Supreme Court?" many demanded to know.

Answer: The late President Franklin D. Roosevelt in 1939.

In Washington, the Supreme Court disclosed it also was flooded with telephone calls "bitterly assailing" Douglas' stay.

Even defense attorney Emanuel Bloch admitted he received a deluge of telegrams censuring him "in strong, abusive terms" for his role to save the atom spies.

Actually, it was not Bloch's argument but one of an outside group of attorneys who voluntarily entered the case which swayed Douglas.

'SHOULD ALL PROTEST.'

Here are some typical comments received at this newspaper:

"It's about time for us Americans to stand up and say something about the Rosenberg case. They've gotten every chance already," declared Mrs. Adeline Gilbert, of 4 Dartmouth st., Forest Hills.

"We should all vigorously protest Douglas' decision—and I mean protest it."

"I don't know what's happening to this country. This is something that every citizen should be up in arms about," said Mrs. Virgil Elwood De Nyke, calling from her home in Ridgefield, Conn.

"I hate to see people punished unjustly. But these Rosenbergs have had a fair trial and every other legal opportunity that exists. Their punishment shouldn't be delayed any longer."

'ASK PARENTS OF VETS.'

Said John F. Campbell, of 502 E. 77th st., a demonstrator for the Chrysler Corp.:

"As a real American I want to say this stinks.

"My son returned from Korea badly hurt. He and I have gone to funerals of his buddies whose bodies were brought back to this country. Ask any parent of any boy who served in Korea what should be done to the Rosenbergs—they'll tell you."

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Reprieved Rosenbergs More Chipper:

'Life for Pair' Now Matter Of Months, Days--or Hours

By LEON RACHT

OSSINING, June 18.—Assured of a new but tenuous lease on life condemned atom spies Ethel and Julius Rosenberg were noticeably more chipper today as they awoke on the day they were to have slipped into eternity.

Saved from the electric chair on their 14th wedding anniversary—they were to

have died at 11 p. m. tonight—the husband-wife spy team who were convicted of stealing atomic secrets for Russia greeted guards who brought them their breakfast with contained smiles but no comment.

Life now for the convicted traitors appeared to be a matter of days weeks, months—or even hours.

Should the U. S. Supreme Court upset the stay of execution granted them by one of its members it is possible they may be put to death before midnight Saturday.

There is a technicality there, too, even as was there a technicality in the reprieve granted by Justice Douglas.

The Rosenbergs were sentenced to die "the week of June 15" by Federal Judge Irving Kaufman. Arbitrarily, Thursday night was fixed of that week, as is customary in the case of convicted murderer.

But that date can be moved

ahead to 11:59 p. m. Saturday at the will of the U. S. Marshal. And so, if the full body of the Supreme Court overrules the Douglas decision, life still can be short for the Rosenbergs.

Reports from the Sing Sing death house were, however, that the Manhattan lower East Side couple were confident they would now ultimately beat the death sentences imposed for their betrayal of atomic secrets to the Kremlin.

Their first request, according to prison personnel, was for the death house radio to be turned on so they could hear news broadcasts of what was happening in Washington.

MAIL HEAVY.

Both ate heartier breakfasts than usual—Ethel, alone in the women's wing of the block for the doomed and Julius along with 12 other condemned men in "Murderers Row."

Each had a stack of congratulatory telegrams to pore over, sent by Communist sympathizers through the night. The prison mail also was heavy with special delivery letters sent to the death house after they were opened by the Sing Sing censor.

The unprecedented stay of execution granted by Douglas threw prison officials into confusion.

Nevertheless, preparations were going ahead just as if the executions were to be carried out as scheduled.

OFFICIALS READY.

Joseph Francell, the official state executioner, was in the death chamber checking his switches and chair electrodes.

Ready to perform his grim job of pronouncing "this man (or woman) dead" was Dr. G. K. Mc-

Cracken, veteran prison doctor, who, even after the stay of execution was granted, received a subpoena from U. S. marshal William A. Carroll to be on hand before 11 tonight.

Warden Wilfred L. Denna advised reporters to "keep their telephones hooked up," apparently in the belief the Douglas decision might be reversed by the full body of the Supreme Court.

"We are up in the air," the warden said. "No one knows what will happen next so we are proceeding along routine lines just in case."

MAY MEET TODAY.

The Rosenbergs have not been permitted to communicate with each other since the last visit of their counsel, Emanuel Bloch, on Tuesday.

Other inmates can talk through the "grapevine" out since Ethel is alone in the women's section of the death house she is unable to pass anything to her husband and vice versa.

It was expected however that one of the defense battery would call at the prison today when the condemned pair will meet again in the counsel room of the death house.

Also expected are more relatives of the couple and, perhaps another visit from the Rosenbergs children, Michael 10 and Robert 6.

TV's Perfect Triangle! Read the story of The Hamilton Trio in the new, big television pages in Pictorial Review, with Sunday's Journal-American.

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Douglas to Fly Back; Hearing Set for Noon

Vinson Says Atom Act Is Not Factor in Case

By ANDREW TULLY,

Scripps-Howard Staff Writer.

WASHINGTON, June 18. —Members of the United States Supreme Court assembled for an extraordinary session today to decide if one of their colleagues was right in standing between Julius and Ethel Rosenberg and the electric chair.

The court was to meet at noon, 11 hours before the convicted atom

What do New Yorkers think about the Rosenberg case?—Page 5.

spies originally were scheduled to go to their deaths in Sing Sing Prison.

Before the court was an application from the Justice Department that it cancel a stay of execution issued only 25 hours earlier by Associate Justice William O. Douglas, acting alone.

Douglas Left Town.

Justice Douglas left town yesterday before his action was announced. Driving West, he heard about the call for a special Supreme Court session as he passed through Pennsylvania. He stopped at a Pittsburgh hotel and made arrangements to fly back to Washington early today.

(Assuming the weather permitted Justice Douglas' flight, there were at least seven of the nine justices known to be in Washington or close enough to return in time for the unusual session, the Associated Press reported. Six constitutes a quorum entitled to conduct business.)

Three things could happen today as a result of the court's deliberations:

1. If it canceled the stay swiftly enough, the execution would pro-

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Court Ready To Rule on Spies' Stay

Douglas Due
To Fly Back

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ceed at 11 p.m. as originally scheduled.

2. If it canceled the stay after the hour set for the execution, a new death time would have to be set by the United States marshal.

3. If it upheld Justice Douglas, the case would revert to the lower courts for review and another year might elapse before a final decision is rendered.

To avoid long postponement of a final decision, which he declared "would not be in the interests of orderly processes of justice," Attorney General Herbert Brownell Jr. had placed before the court a 14-page brief attacking defense claims that the government had no right to impose a death penalty on the Rosenbergs.

Base of Claim.

This defense claim was based on the contention that the Rosenbergs should have been tried under the Atomic Energy Act of 1946, rather than the Espionage Act of 1917. The Atomic Energy Act provides for a death penalty only if recommended by a jury, which was not the case at the Rosenberg's trial, and only if the offense was committed with an intent to injure the United States, which was not charged to the Rosenbergs.

In his eight-page opinion granting the stay, Justice Douglas had said there remained a question whether the Atomic Energy Act was applicable in the case. He further pointed out that, since part of the conspiracy charged against the Rosenbergs was committed after the Atomic Energy Act went into effect, the lower courts should rule whether the act was applicable.

But Mr. Brownell argued that the Atomic Energy Act was not intended to supersede or repeal other "pertinent" laws, and cited a section of the act in support of his argument:

"This section shall not exclude the applicable provisions of any other laws, except that no government agency shall take any action under such other laws inconsistent with the provisions of this section."

In further support of his contention that the Rosenbergs were properly tried under the Espionage Act, Mr. Brownell declared that the Rosenberg conspiracy covered matters "other than atomic energy," and quoted a Court of Appeals opinion:

"... Here there was a single unified purpose... the transmission to the Soviet Union of any and all information relating to the national defense"...

He also argued that, according to the trial's testimony, the transactions involving atomic secrets occurred before the passage of the Atomic Energy Act in 1946 and that subsequent transactions did not relate to atomic energy.

Mr. Brownell noted that all of the overt acts alleged in the indictment occurred between June, 1944, and January, 1945, and added that testimony at the trial showed that the last atomic information handled by the Rosenbergs was furnished them in September, 1945—"still almost a year prior to the effective date of the Atomic Energy Act."

"It seems clear," said Mr. Brownell, "that the provisions of the Atomic Energy Act would not be applicable... not only was the conspiracy a general one dealing

in any and all information relating to national defense... but also the acts of transmission of atomic energy information occurred prior to the passage of the Atomic Energy Act."

Mr. Brownell sent his application to Chief Justice Fred M. Vinson a few minutes before 5 p.m. yesterday.

At 11 o'clock, only six hours earlier, Justice Douglas had announced his order granting the stay of execution, and then had departed. The hours that followed belonged to defense counsel Emanuel Bloch and his aids, who

issued rejoicing statements while Mr. Brownell, acting solicitor general Robert L. Stern and a staff of assistants toiled on their reply. Finally, after several false alarms, the government application was delivered to Clerk of Court Harold Willey by a clerk in the solicitor general's office. Mr. Willey immediately carried it down the long corridor to the suite where Justice Vinson had been waiting. Sixty-five minutes later, Justice Vinson announced that he was convening a special term of the court to act on Mr. Brownell's petition.

A-Spies Can Die Tonight If Court Acts

By Scripps-Howard Newspapers.

WASHINGTON, June 18.—If the Supreme Court should decide to cancel the stay of execution given the Rosenbergs by Justice William O. Douglas, a phone call to Sing Sing prison as late as 10:30 o'clock tonight would mean death for the couple at the originally appointed hour of 11 p.m.

Back when Ethel and Julius Rosenberg were sentenced in court to die, the Justice Department through its U.S. marshal then set the electrocutions for "the week beginning June 14." Sing Sing officials docketed the executions for 11 p.m. today.

If the Supreme Court makes a decision against the Rosenbergs after 11 o'clock tonight, but before the end of this week, Sing Sing officials still could carry out the death penalties without delay.

If the Supreme Court decides against the Rosenbergs after this week, the Justice Department will have to designate a new seven-day period in which the Rosenbergs are to die.

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JAD

Execute the Rosenbergs Tonight, Says Majority in City Spot-Check

By SHELDON BINN,
Staff Writer.

If it were up to Mr. and Mrs. New York, convicted atom spies Julius and Ethel Rosenberg would die tonight in Sing Sing's electric chair.

A spot survey of New Yorkers showed today that the majority of them disagree with yesterday's decision of Justice William O. Douglas granting the Rosenbergs a stay of execution.

The most oft-repeated opinion was that because the Rosenbergs transmitted atomic secrets to Russia, they endangered the lives of millions of Americans and therefore deserve nothing better than swift death.

None Doubt Guilt.

Among those who felt the Supreme Court justice did the right thing, there was a heavy sprinkling of the belief that if the Rosenbergs were left in jail long enough, they might start talking—and would supply information leading to the arrest of other spies. None of the persons contacted by this paper suggested that the Rosenbergs were innocent.

Others who sided with Justice Douglas said they were opposed to capital punishment in general or that execution was too stiff a penalty for the crime. Several thought the atom spies should die if it weren't for their two children.

There were a number of persons who declined comment, including one who said he didn't know too much about the case, but "the caliber of Justice Douglas should be given quite a bit of consideration."

Most Disagree.

But the critics of Justice Douglas outnumbered those who agreed with him.

Said Mrs. Mildred L. Helmer of 66-19 Fresh Pond Rd., Ridgewood:

"The Rosenbergs should get the electric chair without delay. I have a son who has been in Korea for 20 months and it is possible that what the Rosenbergs were attempting to do might have caused his death.

"They didn't think of their children when they were engaging in these activities so why use them now in an attempt to play on the sympathies of the American public?"

Sentiments Echoed.

Similar sentiments came from Mrs. Chester Glowacki of 437 E. Ninth St.

"My son Joseph was killed in Korea two years ago. Our boys are

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being killed by Communists. The Rosenbergs are Communists and we should have no sympathy for them. They deserve to die."

Mrs. Anne MacArthur of 81-05 35th Ave., Jackson Heights, expressed surprise at Justice Douglas' decision.

"As long as President Eisenhower refused to intervene, I did not think Justice Douglas would do anything like this. I am all for their execution because I think they deserved what they were going to get. If they had the chance they would have killed many more than two persons through their actions."

Children Cited.

But there were others who felt different. Mrs. Ethel H. Jones of 557 W. 148th St. put it this way:

"While I feel they should be punished for their crime, there are the children to think of. I don't think their parents should be taken from them. The Rosenbergs should be whipped and sent back to their children."

Mrs. Charles Lynch of 30 Seaman Ave. said she thought it would be better to send the Rosenbergs to exile in Russia than to execute them.

"There would be a lot fewer spies if we sent them to Russia."

Mrs. Lynch added, however, that she did not approve of one man stopping the execution. She said the whole court should have acted on the matter.

Against Death Penalty.

Said James Dean of 789 Dean St., Bklyn., "I don't believe in the death penalty."

Charles E. Whitaker of 582 Franklin Ave., Bklyn., called the stay "a good idea" because "I don't think the government had enough evidence to send them (the Rosenbergs) to the chair."

Typical among persons who took exception to Justice Douglas' decision were:

Mrs. Jesse Perlmutter of 4215 Layton St., Elmhurst: "If these people are traitors to their country, their execution should not be delayed."

Mrs. Ella Lanza of 193 Roslyn Road, Mineola: "When a man of the high intelligence and integrity of Judge Kaufman heard the case, knew the full facts and passed this sentence, why should it not be carried out without further dilly-dallying? Our own boys who are over in Korea fighting and dying do not get the consideration that these spies are getting."

Howard F. Dunn of 89-24 164th

St., Jamaica: "The sentence should be carried out promptly."

May Deter Others.

Mrs. Jerome Colonna of 97-13 103rd St., Richmond Hill: "They should get the electric chair because if they don't other persons will attempt to sell out their country."

Mrs. Margaret Coyle of 2463 Tiebout Ave., Bx.: "I don't like what Justice Douglas has done. I believe these folks had their day in court and that justice was done."

Siegfried Nathanson of 906 E. 180th St., Bx.: "I don't think that they should have been given the stay of execution. I think they had their day in court."

Mrs. Joseph Siletsky of 585 E. 169th St., Bx.: "These people should be executed."

More Back Execution.

Miss Josephine di Stefano of 345 E. 12th St.: "I think they deserve to be executed."

Mrs. Edward P. Collins of 623 W. 204th St.: "I really think they should be executed if they gave atomic information to Russia."

Joseph Marsh of 8 Dunston Ave., Yonkers: "I feel they're guilty and should go to the chair."

Mrs. Ambrose J. Gilles of 31 Bonnie Briar Lane, Larchmont: "I think the decision (granting a stay) is horrid. There is no sense in their hanging on so long. It costs the taxpayers money every time the case is delayed."

Fears Other Spies.

Mrs. Agnes Kelly of 520 Bay Ridge Parkway, Bklyn.: "I don't like the decision at all. I agree with President Eisenhower. If they get away with this, similar things will be done against this country."

Elias Boolbel of 152 Prospect Park West, Bklyn.: "I feel they should be executed. Treason is one of the worst things you can do to a country."

Comments from persons who agreed with Justice Douglas' stay order for one reason or the other included:

Mrs. Bernard Relin of 830 Park Ave.: "I feel perhaps after a little time in jail the Rosenbergs will crack and tell all they know."

Mrs. Hattie P. Stevens of 366 St. Nicholas Ave.: "They should be given life imprisonment. Capital punishment doesn't stop people from being spies."

Reds Stir France to Cry 'Dreyfus' in A-Spy Case

By R. H. SHACKFORD,
Scripps-Howard Staff Writer.

PARIS, June 18.—France hasn't had a government for a month and only a handful of people seem to care. But almost every Frenchman today has time and energy to agitate about the U.S. atomic spies, Ethel and Julius Rosenberg.

More than 5000 Communists laid off work yesterday and came by bus from all parts of France to "march" on the American embassy. French police let them gather and demonstrate.

Auriol 'Concerned.'

Even France's President Vincent Auriol, who has had his hands full trying to get someone to form a new government, has found time to express his "concern" over the Rosenbergs to the U.S.

The "Save the Rosenbergs" campaign in France was inspired originally by the Communists and such neutralist newspapers as *Le Monde*.

But the campaign now includes all shades of political opinion—from the extreme right to the ex-

treme left—and has solicited support from powerful Catholic Church leaders such as the Archbishop of Paris.

Reds Reap Rewards.

The non-Communists are so worked up now that the Reds don't have to do much except reap the rewards.

The Communist line, of course, is that the Rosenbergs are innocent and should be freed. The non-Communist line seems to get closer to that view each day, although generally confining itself to a plea for mercy—that is, a relief from the death sentence.

The accusation that the Rosenbergs did not have a fair chance after all their appeals comes in a country where hardly a peep was uttered when the East European Communist governments hanged their leaders right and left without giving them a chance to appeal at all.

It's notable that very little is said these days about what the Rosenbergs did.

CLIPPING

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N. Y.

DATED JUN 18 1953

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Right Edition

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A-Spies Await Ruling, Plan Celebration

Atom spies Julius and Ethel Rosenberg spent their 14th wedding anniversary in their Death House cells at Sing Sing prison today, wondering whether this will also be their last day on earth.

The answer is up to the U.S. Supreme Court, which meets at noon in Washington to review the stay of execution granted yesterday by Justice William O. Douglas.

May Die Tonight.

If the Supreme Court rules against them as it did before, the spies may go to the electric chair at 11 tonight, as scheduled, or they may be executed later this week.

Warden Wilfred Denno said the execution could be carried out at any time up to midnight Saturday, under the original court order setting the electrocutions for the week of June 14. He said the time is up to U.S. Marshal William Carroll, who is directing the executions for the government.

Take News Calmly.

When Justice Douglas granted the stay yesterday, the Rosenbergs took the news calmly. Rosenberg's eyes were moist. His wife smiled. They told guards they were "pleased . . . happy." Otherwise, they displayed no more emotion than they have all through the long months of their confinement.

Rosenberg's mother, 65-year-old Mrs. Sophie Rosenberg, fainted when she heard the news while visiting her daughter-in-law in the Death House. A prison doctor revived her. Shortly afterwards, she visited her son.

"I don't believe it," Rosenberg said when first informed of the stay. Then he told his mother: "I didn't expect it, but I'm so happy."

Death House Celebration?

Rosenberg's mother held a press conference last night in the office of the Committee to Secure Jus-

tice in the Rosenberg Case, 1050 Sixth Ave., near 40th St.

She said her son and his wife will have an ice cream and cake celebration in the Death House tonight.

She said her daughter-in-law informed her the ice cream and cake were in the Death House kitchen. The elder Mrs. Rosenberg said Julius and Ethel planned to invite guards and fellow prisoners to their party.

"That's bunk," commented Warden Denno from Sing Sing.

Last Meal Dessert.

He said the Rosenbergs may get ice cream, but only at their last meal.

A trainload of Rosenberg committee members left Pennsylvania Station for Washington today to praise or protest the Supreme Court's decision, when it is announced.

They will also protest a Congressional resolution calling for the impeachment of Justice Douglas.

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Use of Thin Technicality to Try To Save Rosenbergs Stirs U. S.

The surprise 11th-hour ruling by Supreme Court Justice William O. Douglas granting a stay of execution to the atom spies and traitors, Julius and Ethel Rosenberg, has shocked and angered a nation which has never before been so nearly united in the belief in the guilt of the defendants in a nationally famous case.

We doubt if the Communists, fellow travelers, crackpots and the small sprinkling of idealists honestly opposed to capital punishment amount to 5 percent of the population—and that is a generous estimate.

Yet the Red propaganda that has been broadcast not only throughout the country, but in Europe, Asia and elsewhere, was primarily intended to malign our system of justice and the whole American way of life.

Now we find, no sooner than the Supreme Court of the United States has adjourned for the Summer recess and it becomes possible to approach a single member of that court and have the processes of justice halted in its tracks, two sets of lawyers rushed to Justice Douglas to secure his intervention.

Never in our memory has such an opportunity been provided for the type of publicity which would appeal to the American radical fringe and to their Communist brethren entrenched in power in nations scattered around the world.

The basis of Justice Douglas' action is a sheer technicality which will greatly annoy unbiased laymen. It had never even occurred to the Rosenbergs' own counsel, who studied the record backwards and forwards most conscientiously to find any way to save the lives of their clients—which, of course, was their bounden duty.

It is ironic that the men who cooked up the idea which Justice Douglas accepted as the basis for his stay were two lawyers not connected with the Rosenbergs at all who represented a

Los Angeles resident who had interested himself in the case.

The question they raised was whether the 1946 Atomic Energy Act—with changed penalties for atomic espionage—supersedes the espionage laws under which the Rosenbergs were convicted. The former stipulates that the death penalty can be imposed only on the recommendation of the convicting jury. There is no such provision in the espionage law and the jury made no recommendations.

We can well understand how the Department of Justice lawyers were astounded by the Douglas ruling. How, they asked, could Justice Douglas feel that the 1946 law could possibly have affected the Rosenbergs' espionage which took place before the law was enacted?

Attorney General Herbert Brownell is to be applauded for the speed with which he acted in requesting that the Supreme Court be called back into emergency session to consider Justice Douglas' ruling.

Chief Justice Fred M. Vinson's prompt action in formally convening the court in special term at noon today now makes it possible for the whole bench to reaffirm its previous ruling refusing to stay the execution well before 11 o'clock tonight—the time set for the electrocution at Sing Sing. For the presence of the required number of justices—a minimum of six—now seems assured.

There are still fresh in the minds of Americans two recent cases of shocking miscarriage of justice because of the overturning of convictions by the United States Supreme Court on the sheerest technicalities. We refer to the Coplon and the Bridges cases.

If the case of the Rosenbergs should become Number Three in this disgraceful list it would be a serious blow to the confidence with which the American people have regarded their highest court of justice.

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A-Spies Silently Wait For Life-Death Ruling

Sing Sing Prison, June 18 (U.P.) —Julius and Ethel Rosenberg today waited stoically in their death row cells for the Supreme Court to rule on their final effort to escape death in the electric chair.

They were uncommunicative to their guards and they gave no indication they regarded this day — their 14th wedding anniversary—as anything but another gloomy 24 hours in the more than two years they have spent in the shadow of death.

Scheduled to die at 11 p.m. today, they displayed no emotion when they heard over the prison radio that Supreme Court Justice William O. Douglas had granted them a stay of execution until the full court

decides a legal point in their case.

Informed of the stay by the prison radio, they told guards they were "pleased . . . happy", but otherwise refused to comment.

But Julius Rosenberg's mother, who with another son and daughter was visiting the condemned man when the news was disclosed, suffered a mild heart attack.

Guards later quoted her as saying she was "overjoyed."

If they wish, Warden Denno said, the couple may see each other most of today until with-in a few hours of their march to the death chamber. However, they will be separated by a wire screen and guards will be in attendance. They have made no such request yet, Denno said.

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late news.

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Judicial Confusion.

Chief Justice Fred M. Vinson acted wisely and with commendable dispatch in recalling the Supreme Court in special term today to remove that body from the dubious position in which it was placed by the action of Justice William O. Douglas in the Rosenberg case.

Last Monday the case of the two atomic spies was before the court for the fourth time.

It voted 5 to 4 against granting a stay of execution and 7 to 2 against reviewing the Rosenbergs' trial, as it had done on three prior occasions. Then in a rare special term, called late in the afternoon after the regular term had been officially concluded, it voted 7 to 1 to reject an extraordinary defense appeal for a writ of habeas corpus to stay the execution.

The court then recessed for its summer vacation, whereupon Justice Douglas took over.

He granted a hearing in his private chambers to the defense attorneys, who had failed in three separate attempts to persuade the full court to intervene on behalf of the condemned couple, scheduled to die in the Sing Sing electric chair at 11 tonight.

Yesterday Justice Douglas announced that he had granted the stay of execution which the court as a whole had refused.

While veteran attorneys in the Justice Department were astounded by this action, the confusion in the public mind can only be imagined.

Justice Douglas based what Attorney General Brownell termed an "unprecedented action" on a provision of the 1946 Atomic Energy Act, which was passed after the Rosenberg's espionage acts had taken place. This question had not been before the full Supreme Court, but it had been overruled in the trial court earlier in the week—and not having been raised in a higher court was presumed to have been abandoned as too flimsy an argument.

While a single justice may grant a stay of execution after the court itself has refused one, tradition holds he should invoke that power only if he is confronted with new evidence which he thinks would be of compelling significance to at least three other members of the court. It takes the votes of at least four justices to bring a case before the Supreme Court for review.

It also was unusual that this case should have been presented to Justice Douglas, since Justice Robert H. Jackson, who also was available, is the designated justice for the judicial circuit which includes New York. Justice Douglas is assigned a district made up of Western and Pacific Coast states.

Inasmuch as this case has attracted worldwide attention, it could not be left in its present state of confusion any longer than absolutely necessary. Under a government such as ours, some allowances must be made for the vagaries of popular institutions, but it is unusual, indeed, to find the nation's highest court placed in such an unenviable and embarrassing position.

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The Douglas Ruling

A "considerable question" of law prompted Supreme Court Justice Douglas' decision—now being tested by the full court—to stay tonight's execution of Julius and Ethel Rosenberg.

The present issue is not whether the atomic spies did indeed betray the United States but whether they were properly sentenced. The question is: Does the Atomic Energy Act of 1946 supersede the World War I espionage statute under which they were tried? Their crime took place before 1946 but their indictment came after that.

If the Atomic Energy Act properly applied in their case, then the Rosenbergs only could have been sentenced to death on a jury's specific recommendation. As it happened, the jury that found them guilty made no recommendation as to the penalty.

The issue is much too complex for the layman, but on its face it is evident that Justice Douglas performed a judicial and courageous act.

William O. Douglas doesn't want Julius and Ethel Rosenberg put to death before every last avenue of appeal is exhausted. The heart of his decision is here:

"It is important that the country be protected against the nefarious plans of spies who would destroy us.

"It is also important that before we allow human lives to be snuffed out we be sure—emphatically sure—that we act within the law. If we are not sure, there will be lingering doubts to plague the conscience after the event."

You can't quarrel with that—no matter how strongly you may feel about the dreadful crime these two people perpetrated not only on their own country but also on the shrinking world of free men.

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Right to Life

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Just

Supreme Court in Dramatic Session To Rule on Death Stay for Atom Spies

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By **GEORGE TROW**

The U. S. Supreme Court was called dramatically into a special term today to decide whether atom spies Julius and Ethel Rosenberg must die in the electric chair at Sing Sing at 11 tonight.

The court wasn't expected to finish its deliberations at least until a few hours earlier than that time.

Chief Justice Vinson summoned the court for what was believed to be the third special term in its history to consider the request of Attorney General Brownell to overrule a stay of execution yesterday by Justice Douglas.

If the court overrules Justice Douglas today—or at any time before the end of the week—the executions can be legally carried out any time up to Saturday midnight without further court action.

May Set New Date

If the decision were delayed beyond Saturday, Federal Judge Irving R. Kaufman, the trial judge, would have to set a new date for execution.

If the court upholds Justice Douglas, the case would be returned to lower courts for legal action which might take a year

See Editorial "The Douglas Ruling," Page 23.

and could result in a new trial.

The Rosenbergs were originally sentenced to death Aug. 5, 1951, and have been reprieved four times since. The latest was Justice Douglas's stay yesterday.

He acted on the petition of two attorneys—Fyke Farmer, of Nashville, Tenn., and Daniel G. Marshall, of Los Angeles—who have had no official connection with the case and have been repudiated consistently by Emanuel H. Bloch and other attorneys for the Rosenbergs.

Both Plan Arguments

Both attorneys said today they expected to present arguments to the court today in support of their petition, though Bloch is the attorney of record.

Farmer and Marshall, who said they got their idea from an article written by Irwin Edelman, Los Angeles pamphleteer, challenged the right of Judge Kaufman to sentence the Rosenbergs to death.

Their argument was that the Atomic Energy Act of 1946 superseded the Espionage Act of 1917 under which the Rosenbergs were tried. Under the Atomic Energy Act a death sentence may be imposed only on recommendation of the jury. The jury made no such recommendation about the Rosenbergs.

Spy Actions Preceded Law

Brownell, however, said that the overt acts of spying charged against the Rosenbergs occurred in 1944 and 1945—before the atomic law was passed and that

Wants Action

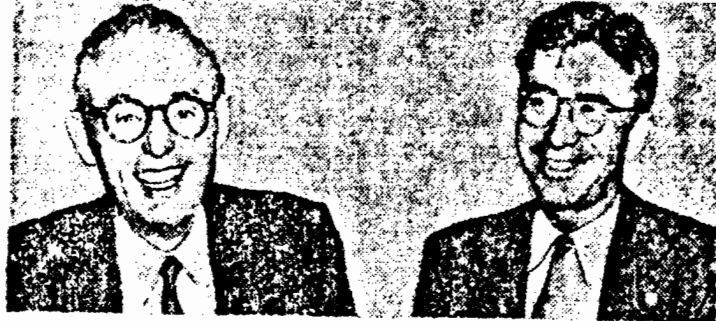


Associated Press Wirephoto

Rep. Wheeler (D-Ga.) tells of his plan to introduce resolution in House to impeach of Justice Douglas of the Supreme Court.

Continued on Page 33

High Court Meets to Rule on Death Stay for A-Spies



Associated Press Wirephoto

The two outside lawyers who raised point on which Justice Douglas granted stay of execution to Rosenbergs pose happily in U. S. Supreme Court. They are Daniel G. Marshall of Los Angeles (left) and Fyke Farmer of Nashville.

Continued from Page 3

the Constitution forbids prosecuting anyone under a law passed after the alleged act was committed.

But Justice Douglas argued in his opinion that the case against the Rosenbergs was based not only on specific acts of spying but also on the charge that they took part in a general espionage conspiracy. This conspiracy, he said, by the prosecution's own testimony, continued into 1950—after the atomic law was passed.

Justice Douglas said the purpose of the atomic law was to "ameliorate the penalties disclosed for disclosing atomic secrets" but Brownell argued that the purpose was to "strengthen"—not weaken—the espionage act.

Six Justices Must Attend

These were the principal points which were to be decided by the special term of the court.

A quorum of six justices is necessary. Justices Jackson, Clark, Burton, Black and Vinson were available and Justice Minton was believed to be close by.

Justice Douglas had headed for the Northwest in his car after his opinion yesterday when he registered at a motel near Uniontown, Pa.

An attendant at the motel said the justice heard a radio broadcast about the special session, remarking, "Let me listen to this." He left soon afterwards for Pittsburgh and flew back to Washington.

Consider Impeachment

While he is sitting with the other justice on the case today, the House Judiciary committee will be considering a resolution to impeach him.

The impeachment resolution was introduced by Rep. Wheeler (D-Ga.) and it was greeted with

cheers and applause in the House. Chairman Reed (R-Ill.) of the Judiciary Committee, promised prompt consideration.

The resolution accuses Justice Douglas of "high crimes and misdemeanors in office." The resolution wasn't expected to get very far. Other Representatives pointed out that Justice Douglas acted fully within his rights in granting a stay.

Gives His View

Douglas said in granting the stay, "It is important that that the country be protected against the nefarious plans of spies who would destroy us. It is also important that before we allow human lives to be snuffed out we be sure—emphatically sure—that we act within the law."

The point raised by Farmer and Marshall is before the court for the first time. The most recent action on the case by the full court was on Monday when the court voted 5-4 to deny a review of the case. Voting with Justices Douglas in the minority were Justices Black, Frankfurter and Jackson.

The court was not being asked whether the Rosenbergs are guilty or even whether they deserve a new trial. The only question was whether Justice Douglas had sufficient ground for granting a stay of execution to give defense attorneys a chance to start a new appeal through the lower courts.

Plea Still Before Ike

Still being held in abeyance—pending final court action—was a petition for clemency to President Eisenhower. He already has turned down one such petition and was quoted by clergymen on Tuesday as hinting nothing had happened to change his mind.



To Be Frank

By Dr. Frank Kingdon

The fact that the Rosenbergs may yet go to the chair is enough to make it impossible to write of anything else.

They are the first convicted traitors condemned to death in our history. This unique fact makes their case a major event in the history of the spirit in the United States. It is with the soul of America that I am concerned.

The Rosenbergs yet may be executed. As two people considered impersonally they are of little account in the toll which death takes among our citizens every day. But the United States has decreed their death. The United States will live. The question is whether the United States will be other than it has been because of this decree, whether it is scarring and brutalizing its own spirit by its action.

One of my profound beliefs is that capital punishment for any crime outrages the genius of democracy. To punish is undoubtedly a prerogative of government, but to take a life under the guise of judicial process is not punishment but vengeance. A king may justify taking a subject's life on the theory that the subject belongs to him and is as much at his disposal as any other chattel, but I cannot find in the democratic assertion of the equality of all citizens any justification for the proposition that the life of any one is at the disposal of the rest.

Furthermore, on strictly pragmatic grounds, I believe that capital punishment is socially unwise. In the first place, a criminal convicted of a social crime like treachery may still be able to repent, and in the light of his repentance to furnish at some date information valuable to the country. In the second place, any criminal provides an opportunity for society to study him and come to know what moves men to crime, thus providing a more scientific approach both to laws and punishment.

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These two objections to capital punishment in itself remove my hope that the Rosenbergs will not be executed from any consideration of their guilt or innocence. My own study of the case through all its ramifications leaves me with the feeling that they are guilty. I am aware that others, including as impressive a man as Prof. Harold Urey, do not agree with this. In fairness I must say that, in spite of unnecessary emotional overtones, I believe they were given a just trial and full opportunity under our laws for review.

This means that any modification of their sentence has to arise from considerations of judgment rather than strict legality. I believe that these are of sufficient weight to justify clemency. The fact that this view coincides with the abominable exploitation of this case by Communists should not be enough to prejudice us against valid justifications for it rooted in our own nature as a democratic people.

We shall preserve ourselves against unnecessary self-accusation and enhance our influence outside our own borders by resisting the extreme in this situation.

Some may say that this is our own business and should not be complicated by dragging in overseas opinion. I suggest that we remember the words of the Declaration of Independence which set forth that it was written in part because of "a decent respect for the opinions of mankind."

Such respect is involved in statesmanship. We can have no doubt from the protests received here from many quarters, religious and secular, that what we do will have powerful repercussions among those whose respect we have a right to cherish.

All of us are moved by profound emotions when we consider any threat to the institutions in which we have put our faith. All that is primitive in us rises to cry for the blood of those who put them in jeopardy. Rightly we feel repulsion against any who would betray them.

Yet, even in our anger, we have to pause to ask ourselves what the nature of these institutions is, and to realize that a deeper hurt can come to them through our mass denial of their spirit than through any conspiracy of a few against them. The spirit of America will shine the clearer for being great enough to be clement when passions call for blood.

Rosenberg Jury Foreman Shocked by Execution Stay

Asks 'What of Our Children?'

The foreman of the jury that convicted Julius and Ethel Rosenberg expressed shock today at Supreme Court Justice Douglas' "unprecedented" action in staying execution of the atom spies.

"Could you imagine a situation like this happening in Russia? Of course not. Even President Eisenhower must have been shocked," declared Vincent J. Lebonitte.

"One of the lawyers for the Rosenbergs said something about having compassion for the Rosenberg children. But what about the millions of American children who might be killed someday because of the crime of these two people?"

Lebonitte, himself father of four children, lives at 221 Martine ave., White Plains. He is employed in the sales division of the Sameth Test Control Co., 157 Chambers st.

Mum on Trial

The ex-jury foreman felt he was still bound by Federal Judge Irving Kaufman's order not to discuss or give opinions on the trial. Kaufman presided at the trial and sentenced the spies.

"I would like to say more, much more," Lebonitte said. "I'm pretty annoyed about the whole thing. I want to see what happens next."



SHOCKED . . . Vincent J. Lebonitte (above) who was foreman of the jury which convicted Julius and Ethel Rosenberg, expressed amazement today at Supreme Court Justice Douglas' "unprecedented" action in staying execution of the atom spies.

Journal-American Photo



'WE HAD NO CHOICE' . . . James Mitchell, an accountant of 1922 Daly ave., Bronx, who was a member of the Rosenberg jury, reads of Douglas' action in the N. Y. Journal-American. He said: "We voted the Rosenbergs guilty as we saw the evidence."

Journal-American Photo by Bill Greenbaum

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Post

Rosenbergs Allowed An Anniversary Chat

Atom spies Ethel and Julius Rosenberg were permitted today to converse together in the presence of guards in the Sing Sing Prison death house.

It was their 14th wedding anniversary and the day that had been set for their execution.

In Women's Wing.

The meeting took place in the visitor's room of the women's wing of the death house. It was arranged at the request of Julius Rosenberg. As has been done at other times in the past, when either Rosenberg or his wife made such a request, Warden Wilfred L. Denno immediately granted authorization. The couple were separated by a screen but were able to talk freely.

The warden called in an extra shift of 70 prison guards who set up a barricade about 300 feet from the prison gate. Armed with billy clubs, the guards stood behind sawhorse barriers and permitted only accredited visitors to pass. Ossining police planned to establish another barrier at the foot of Hunter St., only road to the prison, nearly a mile from the gate. State troopers were expected to patrol the road.

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the stay yesterday, the Rosenbergs took the news calmly. Rosenberg's eyes were moist. His wife smiled. They told guards they were "pleased . . . happy." Otherwise they displayed no more emotion than they have all through the long months of their confinement.

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when she heard the news while visiting her daughter-in-law in the Death House. A prison doctor revived her. Shortly afterwards, she visited her son.

Death House Celebration.

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Douglas Sitting Duck, A-Spies' Lawyer Said

By Scripps-Howard Newspapers.

WASHINGTON, June 18.— Supreme Court Justice William O. Douglas invaded another justice's bailiwick in making his controversial ruling on the Rosenberg case—but it was all legal.

The atom spies' defense apparently welcomed the invasion because, after his first conference with Justice Douglas, one of Julius and Ethel Rosenbergs' lawyers had said of the justice: "He was a perfect target."

When the court is sitting, appeals must be heard by the justice supervising the lower court whose decision is being contested. In the case of the Rosenbergs that is the second circuit, under supervision of Justice Robert H. Jackson. If the Supreme Court had not been in recess, Justice Jackson would have had to hear the 11th-hour appeal in behalf of the Rosenbergs.

But the court was in recess; under those circumstances, an appeal could be taken to any of the nine justices. Justice Jackson was still in Washington and available but so was Justice Douglas, and it was to the latter that the appeal was carried.

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precedented" action, should be withdrawn, Douglas said.

"Justices don't argue. They listen, and then deliberate."

But the jurist denied his action was "unprecedented."

"I have stayed half a dozen executions in the past year and have denied stays in at least six other cases," he said.

The 54-year-old justice, whose action in the Rosenberg case created one of the most chaotic situations in the annals of jurisprudence, was en route to the Northwest by automobile when Vinson announced the special session of the high tribunal.

Douglas quickly changed his plans, left his car in Pennsylvania, and arranged air transportation to Washington.

POINT AT ISSUE.

Brownell, backed by the vast legal machinery of the Justice Department, contended Douglas had no right to defy the Supreme Court majority, which four times has ruled against the Rosenbergs.

The point at issue was whether the man and wife—sentenced to pay the supreme penalty on the 14th anniversary of their wedding—were tried under the appropriate law of the land.

The Rosenbergs were convicted in 1951 of passing U. S. atomic secrets in Russia. They were tried under the Espionage Act of 1917, which permits a trial judge to impose a death sentence without recommendation to that effect by a jury.

A last-ditch contention by "unofficial" defense attorneys that the Rosenbergs should have been tried under the Atomic Energy Act of 1946, which requires a jury's recommendation before a death sentence can be exacted, brought Douglas' controversial decision.

DOUBT OF VALIDITY.

He ruled that there was "serious doubt" of the validity of the sentence and that the Rosenbergs were entitled to a chance to litigate that issue.

Acting Solicitor General Robert L. Stern, presenting the Government's position on the case, immediately began reviewing the events of the last few days.

He declared the U. S. believes the Rosenbergs have not presented a substantial question to the court.

Stern asserted:

"We do not believe that the point now under discussion 26 months after the defendants were convicted and after the case was reviewed countless times by the courts has substantiality.

WOULD HAVE BEEN RAISED.

"If it were substantial it would have been raised before this time."

Stern told the court that if the Government had tried to support the case against the Rosenbergs under the Atomic Energy Act instead of the espionage law, "it would have been thrown out of court so fast the Government would have been the laughing stock of the legal profession."

He said the reasons were that only part of the secrets allegedly passed related specifically to atomic energy and all of the over acts connected with the atomi

field occurred prior to passage of the atomic law.

The court engaged in a long discussion with Stern over what the effects would be if the court should now find that the Rosenbergs should have been tried under the atomic law, instead of under the espionage statute.

FRANKFURTER DISSENTS.

At first, Stern agreed with a statement by Douglas that all that would happen would be that the sentence would be vacated and the Rosenbergs would go back for resentencing.

But Justice Frankfurter disputed this, pointing out that under the atomic law a jury recommendation was necessary for the death sentence to be imposed. Therefore, he said, participation of the jury would be indispensable.

Finally, Justice Jackson declared:

"The probabilities are that if the Atomic Energy Act governs this, the whole case is out."

Stern agreed "that is a possibility."

Frankfurter criticized Stern for not taking a firm position on the question of whether a new trial would be required or whether resentencing only was necessary.

IMPORTANT POINT.

He declared that this was a very important point and urged Stern to limit his replies to matters on which he could take a firm position.

Stern replied that the arguments that he intended to make would eliminate the necessity of these points, and then went into his reasons why the Government could not have brought the case under the atomic law.

At one point Justice Clarke asked Stern if the Government would have to confer with the Atomic Energy Commission in event courts decided that the Rosenbergs should be tried under the atomic law.

NO CONFERENCE WITH AEC.

Stern replied that he could not reply definitely, but that there probably would be no conference with the AEC. Clark then questioned how the Government could go back for resentencing only without consulting the Atomic Energy Commission.

Stern admitted the Atomic Energy Law was not explicit about whether it superseded the Espionage Act, but he said this was implied by Congress.

But he contended the Rosen-

bergs stole American atomic secrets and passed them to Russia before 1946 and there was no evidence in the record to show that this happened after the Atomic Energy Act was passed.

NOT SUFFICIENT GROUNDS.

Stern answered:

"If we prosecuted under the Atomic Energy Act this court and others would have said there was not sufficient grounds to bring a case under the Atomic Energy Act.

"All we had alleged after 1946 was that the defendants conspired and tried to get a lot of information they were unable to get and then fled after it was uncovered."

Douglas said he could find no evidence to show that Congress intended that the Atomic Energy Law replace the Espionage Act and that, because of this, he decided to issue the stay.

When Stern insisted that the espionage charged against the Rosenbergs occurred prior to passage of the Atomic law, Douglas commented:

"I've read the record and atomic energy dominated the atmosphere of this case from beginning to end."

Lawyers representing the Rosenbergs asked the court for permission to argue during the spe-

cial session for one-and-a-half hours and an expert on the atomic energy law asked permission to argue separately on behalf of the condemned couple as a friend of the court.

FOUR TO PARTICIPATE.

The four lawyers who requested the 90 minutes for their arguments are the Rosenbergs' chief counsel Emanuel H. Bloch and his assistant John Finerty.

Also participating will be Fyke Farmer of Nashville, Tenn., and Daniel G. Marshall of Los Angeles, the lawyers who won the stay from Douglas for the Rosenbergs.

Bloch also gained support for his fight to keep the stay intact from James R. Newman, former chief counsel for the McMahon Committee which drafted the atomic energy law passed in 1946.

Douglas, who has spent the last 14 years on the high bench, was sternly criticized in Congress and by Attorney-General Brownell for his decision.

Brownell, apparently fighting mad, called on the court to act "as expeditiously as possible."

There was no doubt that the Government hoped for court decision that would permit authorities to proceed with the electrocution of the Rosenbergs on schedule.

In his opinion, Douglas made it clear that he was not attempting

to override the court's overwhelming decision Monday against reviewing the case, granting a stay of execution or issuing a writ of habeas corpus.

He said that because a "serious" question—never before presented—on the method of sentencing the Rosenbergs had been raised he felt impelled to grant the stay. In the past he has both opposed and favored Supreme Court review of the sensational spy case.

The question—ironically raised by a group of "intruding" lawyers—concerned whether the Rosenbergs should have been prosecuted

and sentenced under the more lenient Atomic Energy Act of 1946 instead of the stiffer wartime Espionage Law passed in 1917.

The Rosenbergs allegedly masterminded a Russian spy ring from 1944 until their arrest in August, 1950.

The 1946 statute requires proof that a person transmitted secret atomic information to a foreign government with intent to harm the U. S. or for personal profit. Moreover, the death penalty must be recommended by a jury.

LONG DELAY POSSIBLE.

The Rosenbergs were convicted of treason under the 1917 law and

Federal Judge Irving R. Kaufman, of New York, imposed the death sentence.

If upheld by the high court, Douglas' action would delay a final decision on the case indefinitely. Bloch guessed the case could not be closed for perhaps a full year.

But Brownell demanded a ruling from the court itself on the Douglas ruling, contained in an eight-page opinion. The Attorney General asked the high court to vacate the Douglas stay or reaffirm its decision Monday against granting a postponement in the execution.

Dead Hero Ignored:

Clemency Train Goes to Capital

On the platform in Penn Station at 9 a. m. today was the flag-draped casket of a soldier who gave his life for his country.

An Air Force sergeant, delegated to escort the dead soldier's body to his home in Atlantic City, stood at attention beside the casket.

But 1,500 persons, who constituted themselves as a national committee to save atom spies Julius and Ethel Rosenberg, took no notice of the flag-draped casket or M/Sgt. Raymond Lyons, of Westover Field, Mass., as they scurried past to find seats in a special 16-car train for Washington.

CARRYING BANNERS.

The 1,500 were carrying banners and placards which were to be used in a series of demonstrations in the capital as part of the pressure drive to snatch the husband-wife spy team from the electric chair.

Whatever may have been the thoughts of M/Sgt. Lyons as he saw the strange sight unfold on the platform of Penn Station, he kept them to himself. All he would say was that he believed the dead soldier had been killed in a Labrador accident.

A booth used to sell railroad tickets to Belmont race track was used to peddle round-trip tickets to Washington for \$5, although the customary rate is \$8.74.

Mrs. Sophie Rosenberg, mother of Julius Rosenberg, left by plane from LaGuardia Field at 10:50 a. m. to plead for the lives of her son and daughter-in-law in Washington.

WHITE HOUSE VISIT.

Mrs. Rosenberg, who was on the verge of tears, said she understood the Rosenberg lawyer, Emanuel Bloch, had arranged an interview for her with President Eisenhower.

Mrs. Tessie Greenglass, 70, mother of Ethel Rosenberg, said at the cold-water flat she has occupied for 38 years at 64 Sheriff st.

"I am thankful for what Justice Douglas did — and I am praying it will work out well. Tonight I'm going away. I don't want to hear anything. I won't say where I'm going. I won't be going to see Ethel. All I want to do is pray."

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